

FILED

DATE 9/4/13 TIME _____

BY [Signature]
CLERK, FSM SUPREME COURT
APPELLATE COURT

IN THE SUPREME COURT OF
THE FEDERATED STATES OF MICRONESIA
APPELLATE DIVISION

EMANUEL MANNY MORI,)
)
)
Plaintiff/Appellant,)
)
)
v.)
)
)
MYRON HASIGUCHY and TRUK)
TRANSPORTATION CO., INC.,)
MARION OLTER & LISA OLTER,)
)
)
Defendants/Appellees,)

FSM APPEAL NO: C1-2013
FSM CIVIL ACTION NO: 2008-1111

**APPELLANT'S MOTION FOR
EXTENSION OF TIME TO FILE
APPELLANT'S BRIEF**

The appellant, through counsel, based on the following Points and Authorities, respectfully moves for a one-month extension of the September 10 2013 deadline for filing of the Appellate Brief as follows:

POINTS AND AUTHORITIES

FSM Appellate Rule 26(b) authorizes enlargement of time for filing of the Appellate Brief "for good cause shown."

The court may shorten or enlarge the periods prescribed for the serving and filing of briefs and may also enlarge the time period for doing any act that is required or allowed under these rules. M/V Kyowa Violet v. People of Rull, ex rel. Ruepong, 15 FSM Intrm. 7, 9 (App. 2007).

The burden is on the appellant to apply, before his time allowance has run, for additional time upon a showing of real need which will not unduly prejudice the appellee. Until such

application for extended time is made so that it may be considered before the allotted time has expired, it is evidence of a lack of good faith and failing extraordinary circumstances, it constitutes neglect which will not be excused. Heirs of George v. Heirs of Dizon, 16 FSM Intrm. 100, 114 (App. 2008).

Plaintiff appellant Mori requests a one-month extension of the September 10 2013 deadline by which to file his Appeal Brief because of inability to meet the deadline due to increase in plaintiff's counsel work load leading up to the deadline. The increases are as follows:

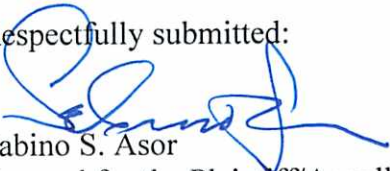
1. After confirmation of the September 10 deadline by the Appellate Clerk's Office in the middle of August 2013, plaintiff-appellant's counsel had already negotiated with opposing counsels in the underlying matter for a need to continue the scheduled August 19, 2013 hearing to change venue in the action below. The plaintiff's counsel reason for requesting the continuance was because of his participation in a government meeting with FSM and US OIA/JEMCO in Honolulu Hawaii, scheduled from August 19 to 23, and requiring counsel's departure from Chuuk on August 17, 2013. See Plaintiff Appellant's attached Exhibit #1 regarding negotiation for continuance of August 19 trial.
2. Before counsel's departure for Honolulu, and in addition to his heavy load of government work, he had to draft and file a pre-trial brief and couple of motions.
3. Upon his return from Honolulu, counsel had to help his supervisors or employers preparing for the state legislature's resumption of their regular session from August 26, 2013, including the researching and drafting of the Governor's State of the State Message originally scheduled to be delivered during the August 26 session, but now postponed to a scheduled state leadership conference in the middle of September, 2013.

All of the works and developments from #1 to #3 above demand immediate attention and time away from the plaintiff's-appellant's counsel's time working on his appeal brief to meet the September 10 deadline.

The plaintiff-appellant does not believe a one-month extension of the September 10, 2013 deadline would prejudice the defendants-appellees nor the third party defendants below because they all have indicated no interest or participation in the present appeal. Please see attached email communications between counsels as plaintiff-appellant's Exhibit #2.

BASED ON ALL THE ABOVE, plaintiff-appellant prays the Appellate Court grants his present Motion for Enlargement of the Time to file Appeal Brief.

Date: Sept. 3, 2013

Respectfully submitted:

Sabino S. Asor
Counsel for the Plaintiff/Appellant

CERTIFICATE OF SERVICE

I, Sabino Asor, do certify that I have caused to be served a true copy of the foregoing Motion for Enlargement of time to file Appeal Brief by regular mail and by personal delivery onto the Appellate Court in Palikir Pohnpei, and on the opposing counsels at their business addresses on file in the herein matter, this 3rd day of September, 2013.


Sabino S. Asor

APPELLANT'S

EXHIBIT #1

- RE: Mori v. Transco

To see messages related to this one, group messages by conversation.

steve finnen
8/29/13

To: 'Sabino Asor'

steve finnen
finnen@mail.fm

From: **Steve Finnen** (finnen@mail.fm) This sender is in your contact list.
Sent: Thu 8/29/13 3:36 PM
To: 'Sabino Asor' (sab.asor@hotmail.com)

Sabino:

I don't object, since I am not going to take part in that appeal.

Stephen Finnen

Stephen V. Finnen
A Law Corporation
PO BOX 1450
Kolonja, Pohnpei FM 96941
finnen@mail.fm , finnen2012@gmail.com
(691)320-2871

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From: Sabino Asor [mailto:sab.asor@hotmail.com]
Sent: Thursday, August 29, 2013 12:57 PM
To: steve finnen; Sabino Asor
Subject: RE: Mori v. Transco

Steve,

September 11 is good for our hearings. I also need a one-month extension for my Appellate Brief deadline which is Sept 10. Please consent to the extension.

Sabino

APPELLANT'S

EXHIBIT #2

- RE: Mori v. Transco

To see messages related to this one, group messages by conversation.

Sabino Asor
8/19/13

To: marstella jack, Sabino Asor, steve finnen

From: **Sabino Asor** (sab.asor@hotmail.com)

Sent: Mon 8/19/13 2:04 PM

To: marstella jack (ejacklaw@gmail.com); Sabino Asor (sab.asor@hotmail.com); steve finnen (finnen@mail.fm)

Marstella,

Please don't break our hearts. Don't exit the case.

We have a novel appeal that we would want the appellate court to shed some light on the trial court's decision (of ignoring rebuttal affidavits) involving your client's idea of signing contradictory affidavits.

Sabino

Subject: Re: Mori v. Transco
From: ejacklaw@gmail.com
Date: Mon, 19 Aug 2013 10:21:04 +1100
CC: finnen@mail.fm
To: sab.asor@hotmail.com

Guys,

I don't see the need for me to stay in this matter any longer since the interest of my two clients have already been adjudicated by the court. I'm going to move for a dismissal from the action. Thank you.

Cheers
mej