

FILED

DATE: 5/9/13 TIME: 9:00 am/pm

By _____
CLERK, FSM SUPREME COURT
CHUUK
TRIAL DIVISION

IN THE SUPREME COURT OF THE
FEDERATED STATES OF MICRONESIA
TRIAL DIVISION – CHUUK STATE

CIVIL ACTION NO. 2012-1024

EOT MUNICIPALITY,
ETAL MUNICIPALITY,
FANANOU MUNICIPALITY,
FANAPANGAS MUNICIPALITY,
LUKINPOCH MUNICIPALITY,
MOCH MUNICIPALITY,
NOMWIN MUNICIPALITY,
PAREM MUNICIPALITY,
RUO MUNICIPALITY,
SATOWAN MUNICIPALITY,
TAMATAM MUNICIPALITY,
and
UDOT MUNICIPALITY,

Plaintiffs,

v.

JOHNSON ELIMO, in his capacity as Governor of Chuuk
State Governor, CHUUK STATE, and FEDERATED STATES
OF MICRONESIA,

Defendants.

FEDERATED STATES OF MICRONESIA

**Cross-Claimant/
Counter-Cross-Defendant,**

v.

STATE OF CHUUK,

**Cross-Defendant/
Counter-Cross-Claimant**

*FSM Defendants Motion for Enlargement of Time -- Civil Action No. 2012-1024
Motion to file by Facsimile
Certification of service
May 9
, 2013*

**FSM Defendants' Motion for
Enlargement of Time to comply
with scheduling order of February
11, 2013.
Motion to File by Facsimile
Certification of Service**

MOTION FOR ENLARGEMENT OF TIME

The Defendants Federated States of Micronesia (Defendant FSM), by and through their attorney the Department of Justice, hereby file a Motion for Enlargement of Time pursuant to Rule 6 (b) of the FSM Rules of Civil Procedure, requesting this court for a further enlargement of time until the end of July, 2013 to comply with the time-frame set out in this Court's scheduling order of February 11, 2013. In that order, the court set the following schedule:

- 1) The State of Chuuk and the Federated States of Micronesia shall respond to pending discovery requests by February 25, 2013;
- 2) All discovery shall be completed by April 1, 2013;
- 3) All pretrial motions shall be filed by May 30, 2013;

And

- 4) A date for hearing, if needed, pretrial motions will be set at a later date.

The reason for the Defendants' Federated States of Micronesia request is set forth in the following memorandum of points and authorities.

Memorandum of Points and Authorities

1. Defendant FSM has not responded to the Plaintiff's request for discovery due to the complicated nature of the case. Counsel notes that the Defendant FSM had until February 25, 2013, to comply with the Plaintiff's request for discovery and apologizes for the delay. On May 9, 2013, counsel for the Defendant FSM contacted counsel for the Plaintiffs requesting more time until the end of July 2013 to comply with his request for discovery as she had to have further meeting with officials from the FSM Department of Finance. Counsel for the Plaintiffs has kindly agreed to the request.
2. The Court has the discretion to grant this motion pursuant to FSM Civ. R. 6(b) which states:

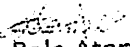
(b) Enlargement. When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion (1) with or without motion or notice, order the period enlarged if request therefore is made before the expiration of the period originally prescribed or as extended by a previous order or (2) upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action under Rules 52(b), 59(b), (d) and (e), and 60(b), except to the extent and under the conditions stated in them.

3. This motion would fall under Rule 6(b) (2) as it is made after the expiration of the specified period to complete discovery in the scheduling order, which is April 1, 2013. When a motion to enlarge time is filed after the time set by an order has expired, the court must determine whether the movants' failure to timely act was the result of excusable neglect. In this particular case, counsel for the FSM Defendants submits that the reason for failing to timely act amounts to excusable neglect. Medabalmi v. Island Imports Co., 10 FSM Intrm. 217, 218 (Chk. 2001).
4. In addition, counsel certifies that a reasonable effort has been made to obtain the agreement of acquiescence of the opposing part pursuant to FSM Civ. R. 6(d), as reflected in the paragraph 1.
5. In addition, counsel requests that the cut-off date for the pre-trial motions which is May 30, 2013, also be extended.

MOTION TO FILE BY FACSIMILE

Counsel respectfully moves this Court to grant the FSM Defendants' motion for enlargement of time to be filed by facsimile as the time to comply with the scheduling order has already lapsed, coupled with the fact that the filing venue is in the State of Chuuk. All Defendants and their attorney are situated in Palikir, Pohnpei State. This request for permission to file by facsimile transmission is made pursuant to General Court Order 1990-1.

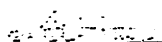
Respectfully submitted this 9th day of May, 2013.


Pole Atanraoi-Reim

Assistant Attorney General

FEDERATED STATES OF MICRONESIA
DEPARTMENT OF JUSTICE
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CERTIFICATION

I, Pole Atanraoi-Reim,  certify that I have caused copies of this motion for enlargement of time and motion to file by facsimile to be served upon counsel for plaintiffs and Defendant at their office addresses below on May 9, 2013.

*Attorney General's Office
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