

FILED

DATE: 12/05/12 TIME: am/pm

By: *[Signature]*
CLERK, FSM SUPREME COURT
KOSRAE
TRIAL DIVISION

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ATTORNEYS FOR DEFENDANT TROPICAL WATERS KOSRAE, INC., CLAUDE PHILLIP
AND RONALD BICKETT,

IN THE SUPREME COURT OF THE
FEDERATED STATES OF MICRONESIA
KOSRAE STATE-TRIAL DIVISION

FSM DEVELOPMENT BANK,)	CIVIL ACTION NO. 2012-2003
)	
Plaintiff,)	
)	
vs.)	MOTION TO ENLARGE TIME
)	TO RESPOND TO DISCOVERY
TROPICAL WATERS KOSRAE, INC.,)	
CLAUDE PHILLIP and RONALD BICKETT,)	MOTION TO FILE BY FACSIMILE
Defendants.)	
)	

TO THE HONORABLE COURT AND ALL PARTIES:

Defendants TROPICAL WATERS KOSRAE, INC., and RONALD BICKETT, file this motion to enlarge time to respond to discovery questions propounded by plaintiff on October 1, 2012. CLAUDE PHILLIP is recently deceased, but is still named as an individual. This motion is supported by the attached Memorandum of Points and Authorities.

The defendants, by and through counsel, hereby move for an order of the Court to allow filing by facsimile. Pursuant to General Court Order, 1990-1, plaintiffs move the Court to be allowed to file this Motion to Enlarge Time by facsimile, on the basis that the Court might not receive a filing by mail in time. Filing by mail would not be received timely.

MEMORANDUM OF POINTS AND AUTHORITIES

FACTS

Comprehensive discovery questions were served on defendant's counsel on or about October 1, 2012. At approximately the same time defendant Claude Phillip passed away. The discovery served was comprehensive, and the responses have not been completed by the remaining defendants. There are also settlement discussions going on at this time. Defendants request until January 15, 2013, to respond to the discovery.

LEGAL ARGUMENT

Rule 5(b) of the FSM Rules of Civil Procedure 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 specific time, the court for cause shown may at any time in its discretion (1) with or without 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) or (e), and 60(b), except to the extent and under the conditions stated in them.


For the foregoing reasons, counsel originally sought until November 30, 2012, to respond to the discovery, but some documents have already been provided, and now counsel seeks to have until January 15, 2013, to respond to the balance of the discovery questions.

CONCLUSION

For the foregoing reasons, counsel for defendants requests that the Court allow an enlargement of time for defendants to respond to the discovery until January 15, 2013.

Dated: 12-3-12

Respectfully submitted,


Stephen V. Finnen
A Law Corporation
Attorneys for Defendants

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I caused to have a copy of the Motion to Enlarge Time on plaintiff by having it delivered by hand delivery to their attorneys' address of record at the address below. Service was made on this 3 day of December, 2012.

Nora Sigmah, Esq
FSM Development Bank
Kolonja, Palmpet, FM 98941

Dated: 12-3-12

