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Counsel for Defendants

FILED
 7/17/13 2:10
 DATE: TIME: AM/PM
 By: *[Signature]*
 CLERK, FSM SUPREME COURT
 YAP
 TRIAL DIVISION

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

FEDERATED STATES OF)	Civil Action No. 2013-3001
MICRONESIA,)	
)	
Plaintiff,)	
)	MOTION TO FILE BY FACSIMILE
v.)	
)	MOTION TO ENLARGE TIME
KUO RONG 113, a long line)	TO RESPOND TO THE COMPLAINT
fishing vessel, HUNG YAO)	
CHANG (Captain of the fishing)	
vessel, SYU BEI-JING (Permit)	
holder), and LUEN THAI FISHING))	
VENTURE, LTD., (Company),)	
)	
Defendants.)	
)	
_____)	

TO THE HONORABLE COURT AND ALL PARTIES:

This office previously entered an appearance as legal counsel for all defendants. Marstella Jack has since appeared for the vessel and captain.

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, defendants 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 prior to the due date for the responsive pleading.

The defendants move for an enlargement of time to file a responsive pleading to the complaint filed in this matter. This motion is supported by the attached Memorandum of Points and Authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

FACTS

The Federated States of Micronesia filed a complaint in this matter on May 6, 2013. The complaint was served on this office on May 7, 2013. The last enlargement order granted until July 17, 2013 to respond to the complaint. Settlement negotiations have been undertaken by the parties, and are currently ongoing. If the case is resolved no further proceedings would be needed. Counsel seeks until July 31, 2013, to respond to the complaint on behalf of the defendants, which includes at least Luen Thai Fishing Venture, Ltd., and at this time the permit holder. Whether or not this office will ultimately represent the permit holder is subject to further discussion, but this motion is filed to preserve his rights at this time.

ARGUMENT

Rule 6(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.” (Emphasis added).

This motion is made because the parties are engaged in active settlement negotiations.

Rule 6(d)


This counsel spoke to Steven George at the FSM Department of Justice on July 17, 2013, to try and get acquiescence to the enlargement, but no agreement was reached prior to the time needed to file this motion.

CONCLUSION

For the foregoing reasons, defendants seek to be allowed to file by facsimile and seek the granting of the foregoing enlargement to July 31, 2013.

Dated: 7-17-13

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, by having it delivered to counsel for defendants at the address listed below, in the manner stated below. Service was made this 17th day of July, 2013.

Steven George
Assistant Attorney General
FSM Department of Justice
P.O. Box PS-105
Palikir, Pohnpei, FM 96941

First Class Mail

Marstella Jack, Esq.
P.O. Box 2210
Kolonia, Pohnpei, FM 96941

Hand Delivered

Dated: July 17, 2013

