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COPY

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DATE: TIME: am/pm

By:   
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 MICRONESIA,  
  
Plaintiff,  
  
v.  
  
KUO RONG 113, a long line fishing vessel, HUNG YAO CHANG (Captain of the fishing vessel, SYU BEI-JING (Permit holder), and LUEN THAI FISHING VENTURE, LTD., (Company),  
  
Defendants.

Civil Action No. 2013-3001

MOTION TO FILE BY FACSIMILE

MOTION TO ENLARGE TIME TO RESPOND TO THE COMPLAINT

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 31, 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 August 14, 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 settlement negotiations. Marstella Jack has been handling the settlement negotiations on behalf

of all defendants, and this counsel cannot state the exact status of the negotiations, but is filing this motion to protect the defendants.

Rule 6(d)

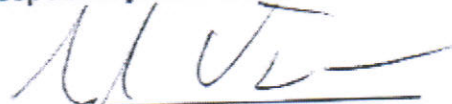
I telephoned the FSM Department of Justice on July 31, 2013, to try and get acquiescence to the enlargement, but the phone was not answered.

CONCLUSION

For the foregoing reasons, defendants seek to be allowed to file by facsimile and seek the granting of the foregoing enlargement to August 14, 2013.

Dated: 7-31-13

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 31<sup>st</sup> 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  
Kolonias, Pohnpei, FM 96941

Hand Delivered

Dated: July 31, 2013

  
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