

FILED

DATE: 1/24/13 TIME: am/pm

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

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

FSM DEVELOPMENT BANK, Plaintiff, v. TROPICAL WATERS KOSRAE, INC., CLAUDE PHILLIP, and RONALD BICKETT, Defendants. CIVIL ACT. NO.: 2012-2003 ORDER GRANTING ENLARGEMENT

I. BACKGROUND

On December 5, 2012, the Defendants Tropical Waters Kosrae, Inc., Claude Phillip, and Ronald Bickett (Tropical Waters) filed a Motion to File by Facsimile and Motion for Enlargement of Time. The enlargement requested until January 15, 2013 to provide answers to discovery requests made by the Plaintiff FSM Development Bank (FSMDB). On January 15, 2013, another Motion to File by Facsimile and Motion for Enlargement of Time was filed by Tropical Waters, requesting until February 15, 2013 to respond to FSMDB's discovery requests. On January 22, 2013, the FSMDB filed its Plaintiff's Opposition to Defendants' Motion to Enlarge Time to Discovery; Plaintiff's Renewed Request for Hearing on Plaintiff's Application for Prejudgment Order of Possession and Other Pending Motions.

II. RULING ON ENLARGEMENT

Rule 6(b) of the FSM Rules of Civil Procedure allows the court to grant enlargement of time by motion. This rule states:

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

1 court for cause shown may at any time in its discretion (1) with or without motion  
2 or notice order the period enlarged if request therefor is made before the  
3 expiration of the period originally prescribed or as extended by a previous order,  
4 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.

5 In support of its motion, Tropical Waters states that the discovery requests by the  
6 FSMDB were comprehensive, that the Defendant Claude Phillip has passed away, and  
7 that the responses have not been completed by the remaining Defendants. The FSMDB  
8 states that more than three months is adequate time for discovery responses to be  
9 prepared and submitted to counsel, even if the Defendant Ronald Bickett is living in the  
10 mainland United States (U.S.). The FSMDB requests the court to order the Defendants to  
11 respond to the FSMDB's outstanding discovery no later than January 31, 2013.

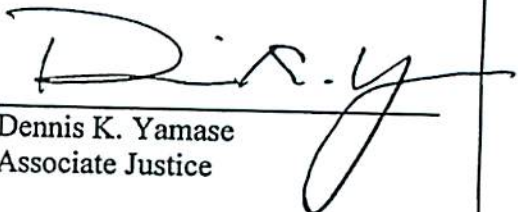
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13 THEREFORE, with sufficient cause shown pursuant to General Court Order  
14 1990-1 and FSM Civ. R. 6(b), the Defendant's motions to file by facsimile and for  
15 enlargement of time are HEREBY GRANTED. Tropical Waters shall respond to  
16 FSMDB's discovery requests by February 15, 2013.

17 **III. STATUS CONFERENCE TO SET HEARING**

18 The FSMDB reported that all documents pertaining to the FSMDB's application  
19 for prejudgment order of possession had been served on the Defendants Tropical Water's  
20 counsel in compliance with 33 F.S.M.C. 1053(2) and requested that a hearing be set on  
21 the application at the soonest possible time. The FSMDB further requested that a hearing  
22 also be set on all other pending motions requiring a hearing.  
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1 The court HEREBY SETS a status conference for Monday, January 28, 2013 at  
2 2:00 p.m. for the purpose of discussing the date, time, and place for a hearing for the  
3 FSMDB's application and other pending motions. Since both counsel are residing in  
4 Pohnpei and only their presence would be required at this status conference, the status  
5 conference will be held at the FSM Supreme Court in Palikir, Pohnpei.

6 SO ORDERED the 28<sup>rd</sup>  
7 day of January, 2013.

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10 Dennis K. Yamase  
11 Associate Justice

12 ENTERED this 24<sup>th</sup> day of January, 2013.

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15 Clerk of the FSM Supreme Court  
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