

FILED  
12/8/14 DATE: TIME: 4:30

By:   
CLERK, FSM SUPREME COURT  
POHNPEI  
TRIAL DIVISION

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

FEDERATED STATES OF MICRONESIA,  
  
Plaintiff,  
  
v.  
  
TOKIWA MARU 28, (a purse-seine fishing  
vessel), KAZUHIRO KIMURA, and  
OHKURA GYOGYO Co. Ltd.,  
  
Defendants.

CIVIL ACTION NO.: 2014-045  
  
ORDER

On November 26, 2014, attorney for the defendants, Kembo Mida (Mida), filed a Motion to Release Tokiwa Maru No. 28 on \$3,000,000 Surety. On November 28, 2014, Assistant Attorney General Caroline Rugero (Rugero) for the FSM Department of Justice (Government) opposed by filing a Plaintiff’s Response to Defendant’s Motion to Release Tokiwa Maru No. 28.<sup>1</sup> In this motion the Government requested a hearing on the matter. On December 4, 2014, Mida filed a Supplement to Motion to Release Tokiwa Maru No. 28 on \$3,000,000 Surety. This supplement indicated that the parties had reached a stipulated agreement regarding the bond.

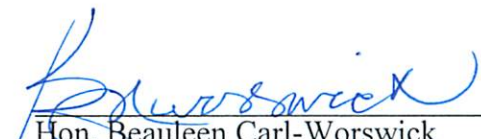
Pursuant to Rule E of the Supplemental Rules for Certain Admiralty and Maritime Claims, the court has the authority in all in rem actions to release the property on either a special bond or a general bond. “If the parties are unable to stipulate to the amount and

<sup>1</sup> By court Order of December 4, 2014, both of these motions were moved from Criminal Case No.: 2014-503 to this parallel Civil Action No.: 2014-045.


1 nature of the security, the court shall fix the principal sum of the bond at an amount  
2 sufficient to cover the plaintiff's claim fairly stated with accrued interest and costs; but the  
3 principal sum shall in no event exceed (i) twice the amount of the plaintiff's claim or (ii)  
4 the value of the property on due appraisal, whichever is smaller." FSM Mar. R. E(6).

5 ACCORDINGLY, the court sets a hearing on terms for the release of the vessel for  
6 Wednesday, December 10, 2014 at 9:30 AM. At this conference, the parties will be heard  
7 regarding any final concerns regarding the size or nature of the bond. Even though it  
8 appears that both parties have reached an agreement already, this conference will be  
9 necessary to ensure complete agreement on the terms and "no property shall be released  
10 without order of the court." FSM Mar. R. E(6)(e).

11  
12 It is so ORDERED the 8<sup>th</sup> day of December, 2014.

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14   
15 Hon. Beaulien Carl-Worswick  
16 Associate Justice  
17 FSM Supreme Court

18 ENTERED this 8<sup>th</sup> day of December, 2014.

19   
20 Chief Clerk of Court