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Chuuk Health Care Plan v. Department of Educ.
19 FSM R. 437 (Chk. 2014)

FSM SUPREME COURT TRIAL DIVISION

CHUUK HEALTH CARE PLAN,)	CIVIL ACTION NO. 2012-1027
)	
Plaintiff,)	
)	
vs.)	
)	
DEPARTMENT OF EDUCATION, STATE OF)	
CHUUK, and FSM NATIONAL GOVERNMENT,)	
)	
Defendants,)	
_____)	
DEPARTMENT OF EDUCATION and STATE OF)	
CHUUK,)	
)	
Cross-Claimants,)	
)	
vs.)	
)	
FSM NATIONAL GOVERNMENT,)	
)	
Cross-Defendants.)	
_____)	

MEMORANDUM AND ORDER GRANTING MOTION TO AMEND IN PART

Martin G. Yinug
Chief Justice

Decided: July 2, 2014

APPEARANCES:

For the Plaintiff: Johnny Meippen, Esq.
P.O. Box 705
Weno, Chuuk FM 96942

For the Defendant: Pole Antanroi-Rheim, Esq.
(FSM) Assistant Attorney General
FSM Department of Justice
P.O. Box PS-105
Palikir, Pohnpei FM 96941

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HEADNOTES

Civil Procedure – Pleadings – Amendment; Statutes of Limitation

Under Rule 15(c), whenever the claim or defense asserted in an amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading,

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the amendment relates back to the date of the original pleading. Rule 15(c) is based on the notion that once litigation involving particular conduct or a given transaction or occurrence has been instituted, the parties are not entitled to the protection of the statute of limitations against the later assertion by amendment of defenses or claims that arise out of the same conduct, transaction, or occurrence as set forth in the original pleading. Chuuk Health Care Plan v. Department of Educ., 19 FSM R. 437, 438-39 (Chk. 2014).

Civil Procedure – Pleadings – Amendment; Statutes of Limitation

When, if claims for health insurance premium contributions due before March 16, 2006, had been included in the original complaint and if the FSM had asserted the six-year statute of limitations defense, the statutory defense would have barred their recovery, the proposed amended complaint's relation back to the original filing date of March 16, 2012, cannot revive those claims. The court will therefore permit the proposed amended complaint but bar the plaintiff from seeking any health insurance premium contributions due before March 16, 2006. Chuuk Health Care Plan v. Department of Educ., 19 FSM R. 437, 439 (Chk. 2014).

* * * *

COURT'S OPINION

MARTIN G. YINUG, Chief Justice:

On June 13, 2014, the court heard the plaintiff's Motion to Amend Complaint, filed March 18, 2014, and defendant FSM national government's Opposition to Amended Complaint and Motion to Strike Amended Complaint, filed April 8, 2014. The motion to amend is granted in part. The court's reasoning follows.

I.

On January 3, 2013, the court granted the plaintiff, the Chuuk Health Care Plan ("the Plan"), partial summary judgment against the FSM national government. Chuuk Health Care Plan v. Department of Educ., 18 FSM Intrm. 491 (Chk. 2013). The court held that the FSM national government was liable to the Plan for the health insurance premium contributions of the Chuuk Special Education Program state employees because the FSM had handled, processed, and paid the Chuuk Special Education Program payroll. *Id.* at 496-97. The time frame covered by the Plan's complaint and thus by the grant of partial summary judgment started October 2008.

The Plan now seeks to amend its complaint to add claims for Chuuk Special Education Program employees' health insurance contributions starting in 2006 in order to conform to the evidence produced in discovery. It is unclear when in 2006 the Plan's claims start and whether the Plan is referring to calendar year 2006 or to fiscal year 2006. The FSM contends that the Plan's motion to amend must be denied and its amended complaint stricken from the record because these claims are time-barred by the six-year statute of limitations.

II.

The FSM is correct that the six-year statute of limitations, 6 F.S.M.C. 805, applies. The claims that the Plan seeks to assert, however, arose out of the same conduct by the FSM (its payment of the Chuuk Special Education Program state employees' payroll) as was set forth in the Plan's original complaint, filed March 16, 2012. "Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original

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pleading, the amendment relates back to the date of the original pleading." FSM Civ. R. 15(c). Thus, under Rule 15(c), the claims in the Plan's proposed amended complaint relate back to March 16, 2012.

Rule 15(c) is based on the notion that once litigation involving particular conduct or a given transaction or occurrence has been instituted, the parties are not entitled to the protection of the statute of limitations against the later assertion by amendment of defenses or claims that arise out of the same conduct, transaction, or occurrence as set forth in the original pleading.

6A CHARLES ALAN WRIGHT, ARTHUR R. MILLER, & MARY KAY KANE, FEDERAL PRACTICE AND PROCEDURE § 1496, at 64 (2d ed. 1990); see also Cannon v. Kroger Co., 837 F.2d 660, 667 n.14 (4th Cir. 1988).

However, if claims for health insurance premium contributions due before March 16, 2006, had been included in the original complaint and if the FSM had asserted the six-year statute of limitations defense, the statutory defense would have barred their recovery. The proposed amended complaint's relation back to the original filing date of March 16, 2012, cannot revive those claims. The court will therefore permit the amended complaint but bar the Plan from seeking any health insurance premium contributions on wages and salaries earned before March 16, 2006.

III.

Accordingly, the Plan's motion to amend its complaint is granted, but, because the FSM has affirmatively asserted a statute of limitations defense, the Plan is barred from seeking any health insurance premium contributions on Chuuk Special Education Program wages and salaries earned before March 16, 2006.

* * * *

FSM SUPREME COURT TRIAL DIVISION

FEDERATED STATES OF MICRONESIA,)	CRIMINAL CASE NO. 2013-1506
)	
Plaintiff,)	
)	
vs.)	
)	
SILISIO a/k/a "Sirco" TIPINGENI,)	
)	
Defendant.)	
_____)	

ORDER DISPOSING OF PRETRIAL MOTIONS

Ready E. Johnny
Associate Justice

Hearings: June 12, July 8, 2014
Decided: July 16, 2014