



NEWSLETTER

Volume I Issue 2

September 30, 2008

Seal of the Supreme Court of the FSM

- The seal above represents many things of the ways of the Micronesian people. The "V" sign in the center of it is a star point; which signifies "star path navigators; a traditional and contemporary symbol common to all four FSM Island States; and, it also represents a mountain; and ocean waves.

Inside this issue:

Ambassador of France Visits the Court	2
Chinese Ambassador	2
Japanese Ambassador	2
Appellate Division	3
2008 National Law Day	4
Mediation in Kosrae	5
JEDP Working Group	5
Management Skills Training for Judges	5
General Counsel resigns	6
Student Volunteer	6
Gordon Silverstein	8
New Staff Attorney	8
New Bar Member	8
ABOUT THE LAW	9

FSM Chief Justices Training and Meeting

Kolonia, Pohnpei.

The National and State Chief Justices met in Kolonia, Pohnpei on September 22-24, 2008 to deliberate on important matters such as the revised FSM Judicial Education Development Plan for the next 10 years, and other important policy decisions to guide judicial development, collaboration and cooperation forward. In attendance were Chief Justice Andon L. Amaraich of the FSM Supreme Court, as Chairman, Chief Justice Judah C. Johnny of Pohnpei Supreme Court, Chief Justice Aliksa B. Aliksa of Kosrae State Court, Chief Justice Camillo Noket of Chuuk



State Supreme Court and Chief Justice Cyprian Manmaw of Yap State Court, FSM Associate Justice Denis K. Yamase, FSM Supreme Court Director Kapilly Capelle, Yap State Court Administrator Andy Choor, Pohnpei Supreme Court Chief Clerk Leon Felix and Administrative Officer Goodwin Etse, Kosrae State Court Administrator Marciano Waguk, and Chuuk State Supreme Court Administrator Isauo Kuena.

Prior to that important meeting, FSM Supreme Court in collaboration with the Pacific Islands Committee of the US 9th Circuit Court of Appeals, conducted a two-day training workshop for the Chief Justices, FSM Associate Justices and all the Court Administrators on the subjects of managing court budgets, financial resources and staff training development processes. On the opening day of the training on Monday September 22, 2008, the participants were welcomed by Chief Justice Judah C. Johnny of Pohnpei.

Continue on p. 7

Japan Ambassador

The Honorable Shoji Sato, the first resident Ambassador of Japan to the FSM paid a courtesy call on Chief Justice Andon L. Amaraich on July 18, 2008.

Chief Justice Amaraich congratulated the Ambassador for his new post and expressed gratification for the Japan Government's genuine recognition and respect of the FSM by elevating its Mission in the FSM to a full fledged Embassy with a resident ambassador for the first time in the history of this new nation.

Ambassador Sato reciprocated by thanking Chief Justice for taking time off his

Continue on page 2



Left to right: Associate Justice Dennis K. Yamase, Ambassador Shoji Sato, and Chief Justice Andon L. Amaraich.

Japanese Ambassador's Visit to the Court continued....

busy court schedule to meet and welcome him. He cited the significance of his role as an Ambassador of Japan to this region that has a long and rich history with Japan. He highlighted the importance of the "closeness of the two countries" not only in geographic terms but historically, in commerce, economic, social, cultural and familial terms. In FSM, as well as the whole region of Micronesia, Japan's presence is evident in every facet of society from heritage to people, to food, to language and trade.

Before Ambassador Sato was promoted and assigned to the FSM, he served as a Consul General at the Japan Embassy in Surabaya, Indonesia. He is very enthusiastic about his new

assignment to the FSM because of the good relationship the FSM and Japan have developed and nurtured since their diplomatic relation was established in 1988. The visit was a fitting tribute to Chief Justice Amaraich, who established the historic diplomatic relations between these two countries when he was the Secretary of Foreign Affairs of the FSM in 1988.

The Government of Japan continues to assist and support FSM and its States in many ways with major development projects over the years. The current major project is the airport extension program for Pohnpei International Airport. The Ambassador indicated that the former Prime Minister of Japan, Mr. Mori is a good friend of Micronesia and he is planning to visit the FSM, Pohnpei in September 2008 to attend the signing ceremony of the airport extension project.

The courtesy visit was brief and cordial. It ended with a photo session of the Ambassador and Chief Justice and the officials in attendance. In attendance with Chief Justice Amaraich was FSM Associate Justice Dennis K. Yamase, Director of Court Administration and a staff from the FSM Foreign Affairs Office.



Ambassador Shoji and Chief Justice Amaraich

Ambassador of France to the Pacific Region, the Honorable Gerard Chesnel

The Ambassador of France to the Pacific, the Honorable Gerard Chesnel, visited the Supreme Court of the Federated States of Micronesia, where he met with Chief Justice Amaraich.

The two leaders discussed development program assistance the government of France may be able to provide to the courts of the Federated States of Micronesia. Ambassador Chesnel explained that his government currently has grants that can be used to improve services in the areas of renewable energy, alternative energy and the environment. The environment projects that can be qualified under these grants are those that relate to maintaining the coral reefs and waste disposal management. As much as 80% of this available grant is dedicated to "solar power energy". Ambassador Chesnel further told Chief Justice that he is thankful for the assistance the FSM has been providing to his government including FSM's support to his government at the U.N., adding that there are no current programs in the legal fields; however, he believes that his government can assist in this area by assisting the FSM with individual persons that can participate in forum lectures on good governance and transparency in governments. The Ambassador informed Chief Justice that France will not be opening an Embassy in the Federated States of Micronesia any time soon as his government is currently reducing the number of its Embassies around the world. However, the Embassy of France currently located in the Philippines serves as his government's representative to the Pacific island nations. The Ambassador further informed Chief Justice that he would include the topics discussed in their short meeting in his report to the government of France.



Left to right: Mr. Henry Shrew, Mr. John William, Ambassador Gerard Chesnel, Chief Justice Andon Amaraich, Mr. Kapilly Capelle, and Mr. Ben Weber

Chinese Ambassador's visit with FSM Chief Justice

Palikir, Pohnpei.



On September 28, 2008 the Chinese Ambassador to the FSM, H.E Liu Fei, paid a courtesy visit with FSM Chief Justice, Andon L. Amaraich at his chambers. Accompanying Ambassador Fei was her new staff, Counselor Qin Jian. The purpose of the visit was to update and brief Chief Justice Amaraich on the developments for the current year. Among other developments, she highlighted the following as her government's support and contribution to FSM: 1.) \$50,000.00 for the SPREP meeting in Pohnpei in September, 2008, 2.) Fund for dry-docking of MS Chief Mailo of Chuuk State, 3.) To sponsor 5 doctors to come and work for Chuuk State hospital, 4.) Installation of 20 solar street lights in Chuuk, 5.) Opportunities for 40 FSM citizens to train in

Continue on p. 9

Appellate Division

The Appellate Division of the Supreme Court of the Federated States of Micronesia convened in Chuuk on September 1-2, 2008. The Appellate Panel comprising Chief Justice Amaraich, Associate Justice Yinug and Temporary Justice Aliksa heard oral arguments in appeal case C1-2008. The appellant Mr. Danny Barrett appealed the trial court's decision denying his motion for writ of garnishment against the State of Chuuk. He was represented by Pohnpei resident attorney Steven V. Finnen. The appellee State of Chuuk was represented by the Chuuk State Attorney General Joses R. Gallen. In the afternoon of September 2, 2008, the same panel heard the oral arguments in appeal case C3-2007, Rokifich Kasmiro, appellant v. State of Chuuk, appellee. Rokofich Kasmiro appealed the Chuuk State Supreme Court's Appellate Division's decision affirming the trial court's finding him guilty of aiding and abetting the possession of a firearm and aiding and abetting the possession of ammunition. The appellant was represented by Steven V. Finnen and the State of Chuuk was represented by the Chuuk State Attorney General Joses R. Gallen.

On September 2, 2008 at 10:00 a.m., the Appellate Panel comprising Chief Justice Amaraich, Associate Justice Yinug and Associate Justice Johnny heard the oral arguments in appeal case C1-2005. The appellant Alex Naruhn, et al. appealed the Chuuk State Supreme Court Trial Division's finding naming appellee Gradin Aisek the legal

owner of a small island in the Chuuk lagoon.

The decisions of the Appellate Panels in the three appeals will be issued at a later date and will be available for public information when they are published.



Appellate Judges: Left to Right: Ass. Justice Martin Yinug, Chief Justice Andon Amaraich, and Temporary Justice Aliksa Aliksa

Appellate Judges: Left to Right: Ass. Justice Martin Yinug, Chief Justice Andon Amaraich, and Ass. Justice Ready Johnny.

Appeal Case Y1-2006

In the first issue of the newsletter published June 30, 2008, we published an article on the appeal, Y1-2006, Kyowa Violet, appellant v. People of the Municipalities of Rull and Gilman, appellees. The appellate panel comprising Chief Justice Andon L. Amaraich, Associate Justice Ready E. Johnny and Temporary Justice Benjamin F. Rodriguez issued its decision on August 14, 2008. In that opinion, the appellate court affirmed part of the trial court's finding in favor of the People of the Municipalities of Rull and Gilman (appellees) for damages of \$2,950,638, but reversed and vacated the trial court's award of attorney's fees and costs that were awarded based on the doctrine of the private attorney-general. The appellate court found the doctrine to be inapplicable in this case; and because it reversed and vacated the trial court's award of attorney's fees and costs, both parties' claims concerning the amount of attorney's fees and costs were dismissed as moot. The award to the People of the Municipalities of Rull and Gilman was for damages to the submerged reef that Kyowa Violet hit causing damage to approximately 60,000 square meters in oiled mangroves, the lost marine resources harvest, and damages for not being able to access the marine area at issue. This is one of the largest damage awards ever made by a court in the Federated States of Micronesia. The appellate court's opinion was authored by Chief Justice Andon L. Amaraich and concurred by the other panel members.

Ombudsmen Sworn In as Assistant Clerk of Courts

On October 8, 2008 the Chief Justice of the Supreme Court of FSM, the Honorable Andon L. Amaraich administered oath of office to National Justice Ombudsman, John A. William and State Justice Ombudsman Belan Yoma. Followed by this ceremony, the Chief Justice and the court staffs had a luncheon in the Court's lounge during which the Chief Justice welcomed the new staff attorney, Mr. Matthew McOmber and his wife Courtney McOmber, to the Supreme Court and to the islands. He thanked the new attorney for his interest in working with the Supreme Court. Chief Justice also congratulated the Ombudsmen and highlighted the seriousness and importance of this oath and that the reason why the Ombudsmen receive the Oath is so that they can also act as Assistant Clerks when the Clerks are not available to swear in witnesses or notarize documents, the Ombudsmen can assist. This will enable the Court to better serve the Public.



2008 FSM National Law Day

Tofol Kosrae

The FSM National Law Day celebrated its seventeenth anniversary and the twenty-seventh anniversary of the Supreme Court this year in Lelu, Kosrae State. This event is sponsored by the Supreme Court of the FSM and held each year which brings one team of high school debaters from the FSM States of Chuuk, Kosrae, Pohnpei and Yap. This year, the 2008 FSM National Law Day ceremonies were held on July 11, 2008. The debates were broadcast live throughout the Federated States of Micronesia.

This year, the debates teams debated each other on the proposition **"be it resolved that the economic progress in the FSM must take priority over environmental responsibilities and concerns."** In previous years, the four teams debated in two semi-final debates; and the winner of the two semi-final debates debated against each other in a final debate. This year's debates were set up differently because team Yap was unable to attend this year's law day. Due to the unfortunate absence of team Yap, the three teams representing Chuuk, Kosrae and Pohnpei had to debate for and against the proposition in a series of three debates. The Kosrae team debated for the proposition against the Pohnpei team in the first debate and debated against the proposition against Chuuk in the third. The Pohnpei team debated against the proposition in the first debate against Kosrae and, debated for the proposition against Chuuk team in the second debate. The Chuuk team debated against the proposition in the second debate against Pohnpei and, debated for the proposition in the third debate against Kosrae.

The Kosrae team comprised of debaters Leah F. Tulensru and Heidi A. Sigrah and coached by Lyna George, was declared the winner of this year's debates with a total of 440 points; the Chuuk team comprised of debaters Teresita Laarwon and Dilluchei Kikuo and coached by Lachlan M. Umbers came in second with a total of 418 points; and the Pohnpei team comprised of debaters John Ryan Johnson and Caroline Werthog and coached by Benjie Phillip was third with a total of 402 points. Each of the student debaters will receive over \$1,000 in scholarship to attend any College or University of their choice, including the College of Micronesia-FSM. During the past four years, Kosrae debate teams have managed to win the national debates three times. They were declared the champions of the 2005 debates held in Chuuk, the 2007 debates held in Yap and the 2008 debates held in Kosrae. The exception to these was in 2006 when Pohnpei team won the debates without the participation of a Kosrae team. Kosrae did not participate in the 2006 national law day debates.

The honored guests of this year's law day activities included Vice President Alik as the keynote speaker and Chief Justice Amaraich of the FSM; Governor Weil-

bacher, Speaker Jackson, Chief Justice Alikxa and other leaders of the Kosrae State Government; Professor Gordon Silverstein of the University of California at Berkeley; Debaters and their coaches; Debate Judges; the Kosrae State Bar members; and the people of Kosrae.

In his keynote remarks, Vice President Alik told the debaters that "for any government, including the FSM, there is an on-going debate as to how we can reconcile our need for greater economic development to improve the lives of our people, and at the same time protect and improve the environment ... this event and the topic you will be debating is so timely because the South Pacific Regional Environment Program (SPREP) will be holding its annual conference for the Pacific region in Pohnpei during early part of this coming September. I assure you that your views will be considered when formulating our position on issues that will be discussed."



Top Photos:
2008 Law Day
Debaters

Left Photo:
Vice President
of the FSM, His
Excellency Alik
Alik delivering
his keynote
address for the
2008 National
Law Day.

Mediation in Kosrae

Kosrae State inaugurated its mediation program on July 10, 2008 at the Kosrae State Court. The ceremony was attended by Vice President Alik and Chief Justice Amaraich of the Federated States of Micronesia, Governor Weilbacher of Kosrae, Speaker Jackson of the Kosrae State Legislature, Chief Justice Alikxa of the Kosrae State Court and the certified mediators, among others. It was a celebration because Kosrae is the first jurisdiction in the FSM that has approved this process as a way of settling disputes. This program started about four years ago with the assistance of the Pacific Judicial Development Program (PJDP). Mediation is a process in which a third-party mediator facilitates settlement discussions between parties. Any settlement is voluntary. However, in the absence of a settlement, the parties lose none of their rights to trial. Kosrae joins a few islands in the Pacific that have approved this process of settling disputes outside the normal adversarial system of judicial determination.

Fourteen court personnel, attorneys and police officers were certified as mediators. As part of the certification process, each mediator was required to complete two sessions of real case scenarios. In his remarks, Chief Justice Alikxa of Kosrae State Court said that mediation guidelines and rules of conduct are in place and that Kosrae can start utilizing the fourteen certified mediators who are now licensed to conduct mediation in Kosrae and in other jurisdictions because seven of the certified mediators meet the international standards for mediation.

In Governor Weilbacher's remarks, he told the crowd that he was grateful to the Pacific Judicial Development Program for choosing Kosrae for its pilot mediation training program adding that mediation and the Kosraean traditional ways of resolving disputes complimented each other "[f]or though Kosraeans may have a tradition of mediation, to be provided the tools to effectively carry on this tradition can only mean we will do this task better than before." Governor said of PJDP that "it is my hope that they are aware of my most sincere appreciation for everything they did, we hope that they will continue to grace us with the benefit of their experience and knowl-



Certified Mediators

- | | |
|----------------------|----------------------|
| 1. Tulensa Palik | 9. Marciano Waguk |
| 2. Betty C. Phillip | 10. Marston Luckymis |
| 3. Shruel Lonno | 11. Morgan Jonas |
| 4. Robert H. Jackson | 12. JD Lee |
| 5. Kiobu Luey | 13. Cindy Haro |
| 6. Arney Jonas | 14. Marris Jackson |
| 7. Paliknoa Sigrah | |
| 8. Harry H. Jackson | |

edge." Gov. Weilbacher also expressed disappointment for the absence of PJDP during the certification ceremony. He congratulated the certified mediators wishing them a successful program in Kosrae.

Governor Weilbacher concluded his remarks thanking Chief Justice Amaraich for his part in making the program a reality adding "your vision for the future, while preserving tradition, is an inspiration, for all of us."

JUDICIAL EDUCATION DEVELOPMENT PLAN WORKING GROUP

The five member group comprising Associate Justice Yamase, Director Capelle, Chief Clerk Keller and National Justice Ombudsman William of the FSM Supreme Court; and Associate Justice Rodriguez of the Pohnpei Supreme Court, met with Chief Justice Amaraich, August 1, 2008 to inform him that the group is ready to start preparing training needs analysis for some of the trainings proposed under the Judicial Education Development Plan (JEDP). The JEDP's objective is that the judiciaries of the FSM, as co-equal branches of their respective governments, are vital for the maintenance of the rule of law in the nation. The plan was a comprehensive framework for judicial education and professional development for judicial officers and staff of the judiciaries of the FSM, as well as other legal practitioners and law enforcement officers, for the next ten years. In carrying out the JEDP, the judiciaries of the FSM will be assisted in maintaining the rule of law and acting as the guardians of human rights, judicial independence, good governance, transparency, and accountability throughout the Nation.

The working group has distributed the surveys to the judges and the clerks of

courts which will help determine the needs of the Municipal and Land Court Judges and Clerks. The working group hopes these trainings can be held in the later part of this year and early 2009. As part of this effort, the group members visited the Municipal Courts in Pohnpei proper to conduct these surveys. A separate Training Needs Analysis (TNA) survey will be conducted in the outer island courts of Pohnpei; however, this process will depend very much on the availability of field trip ships. If approved, these trainings will be different from those attended by judges and court clerks in the past due in large part that these trainings will address those areas of training needs identified by them in the surveys. The goal of these trainings will be to help improve work performance of the Municipal and Land Courts, especially the clerk of courts, in order to become more competent and more professional. The focus of the clerks' training will be on their duties and responsibilities. The group's analysis of the surveys conducted will determine the subjects of these trainings that were submitted to the FSM Chief Justices for their review and approval in their September 2008 meeting.

Management Skills for Presiding Judge Course

Chief Justice Noket of the Chuuk State Supreme Court attended the Management Skill for Presiding Judge Course at the National Judicial College in Reno, Nevada on June 9-13, 2008.

There were a total of 24 participants. Of the 24 judges, fourteen were from throughout the United States representing District Courts, Administrative Law Courts, Superior Courts, Municipal Courts, Criminal District Courts, Court of Common Pleas, Circuit Courts and U.S. Navy-Marine Corps Trial Judiciary; nine from Nigeria representing the Investment & Securities Tribunal; and Chief Justice Camillo Noket of the Chuuk State Supreme Court. Chief Justice Noket stated that attending the course "was very interesting meeting different people with different courts and cultures and learning how each deals with his (her) court as a leader." The topics discussed during the five days course were (1) Leadership; (2) Leadership and Management with the specific subject on the roles of the presiding judge and court administrator; (3) Human Resources, Inherent Power and Ethical Issues;

Story continues on p. 6

Management Skills for Presiding Judge Course continued....



Chief Justice Camillo Noket

(4) Case flow management, budgeting and media relations; and (5) Changing role of the judge, Problem Solving Court, Technology Management, Community Outreach and Future Planning for Presiding Judges.

He said that he learned so much from the discussions on leadership, adding that among all, "I learned that the most important aspect of my responsibility is to improve morals among my judges and staff and how to improve seeking cooperation and supports in carrying out plans of the court to work as a team." He said it is important to "improve performance as Chief Justice and my working relationship with court administrator." Chief Justice Noket said that what he learned the most of inherent power is the definition itself which "consists of all powers required to enable a court to perform efficiently its judicial functions, to protect its dignity, independence and integrity, and to make its lawful functions effective."

Chief Justice Noket stated that case flow management is important for courts in that some specific techniques for both civil and criminal cases are applied. For instance, a court should pay attention to cases at the earliest possible moment; that every case has a next event date; early and continuous case control; event deadlines – few continuances; smaller trial calendars; firm trial dates; and trial management. To these, he said "he plans to require his court to have for each judge a case report of his cases to be published at least monthly and to put emphasis on the date of the next action, as a reminder to the judge of the date what he must do on that particular date." He said he planned to share what he learned with the Associate Justices and the staff of his court.

Chief Justice Noket graduated on June 13 with a certificate of completion for successfully completing the requirements of the course.

General Counsel

The General Counsel for the Supreme Court of the Federated States of Micronesia, Mr. Graig Reffner after 11 years of employment in the FSM completed his contract and for personal reasons returned to the United States. Mr. Graig Reffner was first hired in 1997 by the FSM Supreme Court as a staff attorney. A couple of years after being an attorney for the FSM Supreme Court, Mr. Reffner went into private practice. In 2006 he rejoined the Supreme Court as the General Counsel.

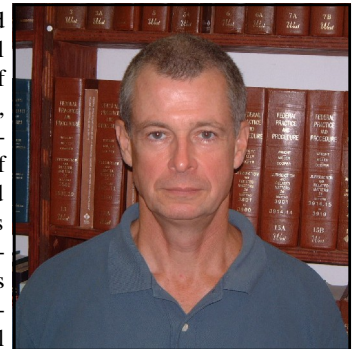
On July 29, 2008 the Supreme Court hosted a farewell luncheon in honor of General Counsel Reffner. Chief Justice Andon Amaraich, on behalf of the Supreme Court and the court supporting staff, expressed appreciation for Reffner's important contributions and dedicated service in the building of the young nation. Mr. Reffner actively participated in several Social Organizations and civil groups which help families and individuals in the community. Among all the good things that Mr. Reffner has contributed to FSM's legal systems and communities, he's always been a great supporter of the Trial Counselor Certificate Program. He was a major player in the implementation of this program. Mr.

Reffner was one of the volunteer instructors of the program. Mr. Graig Reffner departed Pohnpei on August 1, 2008 returning to his home and family in the U.S.

Effective August 1, 2008, the staff attorney for the Supreme Court, Mr. Ben Weber, is the Acting General Counsel. Prior to joining the FSM Supreme Court, Mr. Weber worked as a staff attorney for the Yap State Court for two years. In 1997 he was hired by the FSM Supreme Court as a staff attorney and was station in Yap. After eight years of service in Yap, in 2005, staff attorney Weber was hired to Palikir Office. Mr. Weber received his J.D. from the John Marshall School Of Law in Chicago.



Mr. Graig Reffner



Mr. Ben Weber

Student Volunteer at the Supreme Court

The Supreme Court of the Federated States of Micronesia was very happy to have a volunteer this summer. Ms. Nichole Yamase, a pre-senior at the Xavier High School in Chuuk State, performed her Xavier High School Community Service requirements by working with Supreme Court Chief Clerk's Office. As part of the Community Service Program at Xavier, students must do community service for credit in order to graduate. According to Mr. Kohsak Keller, Chief of Clerk for the FSM Supreme Court, "Nichole contributed a lot to the Court". She helped the clerk's office in the buildup of the electronic case indexing database. The clerk's office is now one step closer to a reliable, efficient, and time saving method of searching criminal backgrounds and case histories.

Ms. Yamase was with the Supreme for almost a month until she satisfied her 160 hours requirements. Her last day of work with the Supreme Court was July 4, 2008. The Supreme Court hosted a farewell luncheon for Ms. Yamase in the court's lounge.



Nichole Yamase



Farewell Luncheon for Yamase

CJ's Training and meeting continued...

FSM Associate Justice Dennis K. Yamase and FSM Chief Clerk of Courts Kohsak Keller conducted the training development workshop and FSM Supreme Court Director Kapilly Capelle was the instructor on the topic on Managing Court Budget and Financial Resources. In addition, the workshop benefited greatly from presentations and discussions generated by Mr. Jesse Giltamag, Assistant Director of Economic Planning of FSM SBOC and Ms. Juliet Jimmy, Assistant Secretary for National Treasury of FSM Department of Finance and Administration. The presentations from Giltamag and Jimmy gave the participants valuable insights into how those offices work and operate in relation to budgeting, procurement and payment processes. Questions concerning the policy and procedure for reviewing the court budgets by the Executive Branch were raised. These questions need further dialogue between the Branches.

The outcome of the training was very positive. The comments by the participants expressed better understanding of the budget process as an important planning tool to guide future activities in fulfilling Court's goals and objectives; and also as an internal administrative tool to monitor progress and evaluate needs to better manage a court. As to the training development process, the workshop shed lights on the importance of following the cycle of the training needs analysis (TNA), training gap identification, training program design and delivery and evaluation in order to develop relevant and applicable training programs and activities for the judges and staff for all the National, State, Municipal and Land Courts.

This workshop was a significant milestone for the FSM Judiciaries in the area of training. This was the first time the FSM was granted full approval by the US 9th Circuit Court of Appeals as well as US Department of Interior to use FSM local judicial trainers to conduct its own training for the Chief Justices, Associates Justices and court staff. That recognition is highly regarded and FSM Judiciaries will continue to do their best to support and advance the training capabilities of its local judicial trainers at all levels of judiciary in this country.

After the training workshop, the Chief Justices reviewed the revised FSM Judicial Education Development Plan and adopted it, with amendments, with the understanding that changes and adjustments may be needed as time and circumstance may so dictate. The revised Plan was adopted with the exception that all training programs proposed to be funded by the Pacific Judicial Development Program (PJDP) for this program year (2008-2009) were put on hold until further notice. Currently PJDP is undergoing re-evaluation, re-organization and potential restructuring.

Furthermore the Chief Justices reaffirmed their decision that all judicial trainings for judges (law-trained and lay judges) and staff for the FSM in which the National Judicial College (NJC) is involved must be decided by the FSM and coordinated directly between the National Judicial College and the Judicial Education Council of the FSM, which consists of all the Chief Justices of the FSM courts. They also approved a training program for the clerks and assistant clerks of court for Pohnpei Municipal Court and two new clerks from the Kosrae State and two from Chuuk. They also approved participation by Chief Justices and Court Administrators in a Court Leadership Training in Palau early next year and participation of two FSM Chief Justices in a traffic training to be held in New Orleans this year.

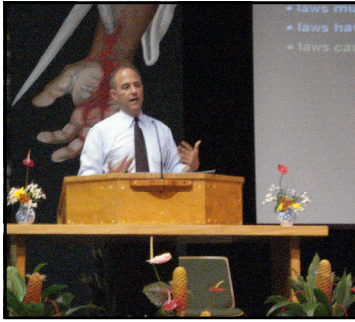
In addition to deliberating and approving training programs, the Chief Justices also shared their challenges and initiatives to strengthen their cooperation and collaboration. They also agreed to review a draft Code of Ethics for Court employees for future adoption after a period of consultation and evaluation of the proposed precepts. The issues of ("Full Faith and Credit") between and among the Courts and Mission, Vision, and Strategic Planning were also discussed and recommendations for actions were made. In the end, each Chief Justice was given an assignment to come up with a name for their organization as a group with the common purpose of judicial advancement and development in this country.

The week of training and meeting ended with a closing dinner reception hosted by Chief Justice Andon L. Amaraich in honor of all participating and visiting Chief Justices, FSM Associate Justices, FSM Secretary of Finance and Administration, and his representative, Director of FSM SBOC and his representative and all the Court Administrators and the presenters/facilitators of the workshop.

In his closing remarks as the host, Chief Justice Amarraich emphasized the importance of coordination, communication and cooperation in all endeavors, especially in our efforts to serve the people. He believed that the training also clearly demonstrated "our ability to conduct our trainings and do them in the FSM" at lower costs.

The interactions between Judges, the court staff and the representatives from the FSM Department of Finance and the Budget Office contributed in large measures to the success of the training. Finally, the Chief Justice expressed sincere thanks to the 9th Circuit Court of Appeals and the Department of the Interior for the confidence they have in our ability to conduct our trainings.





Professor Gordon Silverstein.

Gordon Silverstein from the University of California, Berkley, visited the States of Pohnpei and Kosrae to do speaking engagements. Silverstein is a Professor of Political Science at the University of California Berkeley. At UC Berkeley,

Silverstein teaches graduate and undergraduate courses in public administration and constitutional law, civil liberties, comparative constitutionalism, the separation of powers, and other courses. Professor Silverstein is an expert in comparative constitutional law and the rule of law.

He gave a lecture to the general public of Kosrae. Present during this lecture were Chief Justice of the Supreme Court of the Federated States of Micronesia, the Honorable Andon L. Amaraich, Chief Justice of Kosrae State Hon. Alikxa Alikxa, Lt. Governor of Kosrae State Hon. William Tosie, and many other officials from the National, State, and Local governments. Also present during the lecture were the students and staffs of the Upward Bound Program in Kosrae. On July 11, 2008 (FSM National Law Day) Prof. Silverstein attended the 2008 Law Day Debates. Professor Silverstein was also invited as a guest to the Closing Reception of the 2008 National Law Day at the Kosrae Phoenix Resort, during which the professor expressed his thanks for the opportunity to take part in the event. The professor expressed his impression that the debaters are very capable young leaders.

On July 14, Prof. Silverstein made another lecture in

Pohnpei at the PMA Auditorium. Followed by the lecture was a panel discussion. Panelist were Johnson Asher, Chief of Litigation of the FSM Department of Justice; Marstella Jack, private attorney, Fr. Fran Hezel, Director of Micronesian Seminar; Professor Gordon Silverstein; and Graig Reffner, General Counsel of the Supreme Court of the Federated States of Micronesia.

During his presence on the islands, Professor Silverstein also had the opportunity to talk with radio stations, The Kaselehlle Press, and The Trial Counselor students at the College of Micronesia. In his lectures both in Pohnpei and Kosrae he discussed **The Social Logic of Courts, Judicial Powers and Limits on Judicial Powers, and the Rule of Law.**



Prof. Silverstein with the Trial Counseling Students at C.O.M.



Silverstein at the Kosrae Atrium

New Law Clerk (Staff Attorney) Matthew McOmber

The Supreme Court of the Federated States of Micronesia welcomes Matthew McOmber as its newest employee. Matthew was recently hired by the court to fill a position vacated earlier this year by a former law clerk. Before coming to the Federated States of Micronesia, Matthew worked for McOmber Law Firm with his father.

Matthew graduated and received his Juris Doctor from the University of the Pacific, McGeorge School of Law. Please join us in welcoming Matthew and his wife Mrs. Courtney McOmber.



L to R: Ben Weber, Courtney McOmber, Matthew McOmber, and Chief Justice Amaraich

FSM Bar New Member

In a special proceeding on September 4, 2008, the Supreme Court of the Federated States of Micronesia admitted Mr. Sabino Asor to the FSM bar. Mr. Asor recently took and passed the FSM Bar Written Examination administered in August 2008 in Chuuk.

Mr. Asor was a former Chief of Staff of the Government of the Federated States of Micronesia under President Mori and former Congressman in the FSM Congress. Asor received his Juris Doctor from the Thomas Jefferson School of Law in San Diego, California. He received his Bachelor of Arts degree from the University of Hawaii-Hilo and an Associate of Arts degree from Leeward Community College in Pearl City, Hawaii. Mr. Asor is a member of the Chuuk State Supreme Court Bar. He is married to the former Ms. Darlene Mori and they have three daughters.



Can You Identify where this is?

The winner will get a prize from the Chief Justice of the Supreme Court.

*all Supreme Court Personnel are not qualified to participate.

Ambassador Fei's visit.....

various specialties and trades in China, 6.) 16 full scholarships to FSM students currently studying in China at various universities majoring in different areas and 7.) Two visits by FSM President Mori to China.

Chief Justice Amaraich thanked the Ambassador and her country for their generosity in providing important projects for the FSM and the States. The Chief Justice inquired about an idea of providing support for local grassroots organizations from non-government organizations in China on development of local projects. As initial response, the Chief Justice was told that the Embassy does not have that kind of program and does not deal with that kind of arrangement. She said that it would be difficult to do because of language barriers between Chinese and FSM people. The Chief Justice expressed his hope that as part of the growing relationship between the two countries, this kind of assistance which directly assists the local grassroots organization can be provided. The door was left open for further exploration of possibilities.

The Ambassador announced the upcoming Trade, Investment and Tourism Forum in Shanghai, China to promote trade and tourism with China. She promoted development of tourism in the FSM to tap 37 million Chinese tourists per year where Guam is endeavoring to get 1 million of that to visit Guam annually by establishing direct flight connections between Guam and Shanghai. She also commented on Pohnpei's potential to establish local produce market with Guam, Majuro and Ebeye and beetle nut market with one province of 100 million people in China that chew.

She presented to Chief Justice a DVD of the closing ceremony of the 2008 World Olympics in Beijing and demonstrated a solar device that has a fan, a clock, a fluorescent light and am/fm radio. The solar device was demonstrated as a promotion of clean alternative sources of energy that is good for FSM and the Pacific Island countries. She also mentioned her interest to support development of a solar power plant in Chuuk State. She is very optimistic about the viability of such a development.

She indicated that her assignment in the FSM is nearing its end. She likes the rain, local chicken, the greenery/fertile land, sun and absence of major diseases like malaria, dengue fever and other life threatening diseases that are common in the tropics. She enjoys her stay in Pohnpei and FSM very much and wished she can work and stay here longer. Chief Justice Amaraich expressed his best wishes and hope that the program of assistance that her government has generously provided will not suffer because of her departure.

ABOUT THE LAW

The last "About the Law" segment discussed the initial phase of a civil lawsuit, which is the filing of the complaint. This segment discusses the next phase of a civil case.

After the complaint has been served and answered, the parties are "at issue," and the lawsuit enters what is called the discovery stage. This is the time when each party is entitled to find out from the opposing party all of the information that is either relevant to the claims set out in the complaint or that will lead to the discovery of relevant information. Relevant information is information that either strengthens or weakens either party's cases. In a civil lawsuit a party must disclose relevant information at the request of the opposing party, and that especially includes information that favors the opposing party. By requiring parties to fully disclose, each side has a better opportunity to assess both his or her own case as well as the opposing party's case. If the parties realistically assess their own cases, then the possibility of settlement increases. Settlement is considered a positive outcome because the parties themselves resolve their own dispute and in so doing keep control over the case, and in a larger sense, control over their own lives. Settlement also conserves judicial resources by allowing the court to focus on those cases that will not settle. If the parties cannot settle, then the case is taken out of the parties' hands and proceeds on to trial for determination by a judge.

In order to learn all relevant information about the opposing party's case, the parties use specific methods to find out information. These are referred to as discovery tools. There are five basic ones: depositions, interrogatories, requests for production of documents or for entry onto land for inspection, requests for physical or mental examinations of people, and requests for admissions.

A deposition is where the attorney for one party will set up a time and a place to meet with the opposing attorney. Present at this meeting will be the person, called the deponent or deposition witness, who will be asked questions by both attorneys. Also present is a court reporter who will either tape record the deposition or take it down by stenograph machine, which is a specialized type of short-hand machine that allows the court reporter to take down every word spoken at the depositions. The person who requested the depositions will ask questions of the witness, who first takes an oath to answer all questions truthfully. This first round of questions is called direct examination. The opposing party may then ask questions. This is called cross examination. After the cross examination is finished, then the person who requested the deposition is entitled to ask questions to finish up the deposition. This is called redirect examination.

If the deponent is a party to a case, then the party taking the deposition need only send a notice to the opposing party that the deposition will be taken. But if the person having relevant information about the lawsuit, such as a witness to a traffic accident, is not a party to the lawsuit, then the party requesting the deposition must serve that individual with a specialized court document called a subpoena, which the court clerk will issue at a party's request. If the witness who was served with a subpoena ultimately refused to appear at the deposition, then that person could be subject to punishment, which might include a jail sentence. In fact, the word "subpoena" is Latin for "under punishment." In other words, if you fail to obey a subpoena, you risk punishment.

Primary Business Address
P.O. Box PS-J
Palikir, Pohnpei
Federated States of Micronesia 96941
Phone: (691) 320-2763/2764
Fax: (691) 320-2756
E-mail: fsmnjssupremecourt@yahoo.com



This document was created with Win2PDF available at <http://www.win2pdf.com>.
The unregistered version of Win2PDF is for evaluation or non-commercial use only.
This page will not be added after purchasing Win2PDF.