



NEWSLETTER

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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.

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2009 FSM National Law Day

The 2009 FSM National Law Day debates were successfully held in Chuuk State on July 13, 2009. The FSM Supreme Court has been sponsoring this important event since 1991. This event provides a forum for high school students in this nation the opportunity to be a part of the discussions on important topics for the Federated States of Micronesia while at the same time providing the opportunity for the public to also participate in those discussions. Since then, the students have debated on topics of significance to this nation. This year's topic was "BE IT RESOLVED THAT IN THE INTEREST OF IMPROVING THE HEALTH OF THE CITIZENS AND RESIDENTS OF THE FEDERATED STATES OF MICRONESIA, THE IMPORTATION OF THE FOLLOWING ITEMS INTO THE FSM SHALL BE PROHIBITED BY LAW: (1) Tur-



Chief Justice Amaraich and Speaker Isaac Figir with coaches and debaters of 2009 Law Day

key Tail (2) Canned Corned Beef (3) Spam (4) Instant Ramen Noodles (5) Such other products as may be determined by statute or regulation to be unhealthful.

The participants of this year's law day included the Speaker of the Sixteenth Congress of the Federated States of Micronesia, the Honorable Isaac V. Figir, Chief Justice of the Supreme Court of the Federated States of Micronesia, the Honorable Andon

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12th FSM Judicial Conference

The 12th FSM Judicial Conference was held in Yap on August 3-6, 2009. The FSM Judicial Conference is an annual event that began in 1994. Its purpose was to provide a forum whereby Judicial Officials and Court Officers would have the opportunity to come together each year to learn and share with one another their experiences. For eleven consecutive years up to November 2005, the FSM Judicial Conference had been held in different States of the FSM addressing topics important to the justices as well as the key personnel of the various courts in the FSM. After November 2005, the conference came to a halt for three years due to lack of funding. But Chief Justice

Amaraich always believes that this forum should continue and funding for it should be provided. With this in mind, the coordination of this year's conference began. This year's conference was made possible with the collaborations between the Supreme Court of the Federated States of Micronesia and the United States Ninth Circuit Court of Appeals and its Pacific Islands Committee chaired by the Honorable Conzuello Marshal.

The participants of this year's conference were: Chief Justice Andon L. Amaraich, Associate Justice Martin G. Yinug, Associate Justice Dennis K. Yamase and Associate Justice Ready E. Johnny of the Supreme Court of the FSM, Chief Justice Camillo Noket and Associate Justice Midasy O. Isaac and Associate Jus-

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Law Day continues..

L. Amaraich, Chief Justice of the Chuuk State Supreme Court, the Honorable Camillo Noket, Associate Justices of both the national court as well as the Chuuk State Supreme Court, Students from the College of Micronesia-FSM Chuuk Campus, the Coordinating Committee of the Law Day, staff of the FSM Supreme Court in Chuuk and the Chuuk State Supreme Court, Chuuk State Department of Public Safety, Officials of the Chuuk State Government and the people of Chuuk.

The leaders of Chuuk expressed their support and thanked the coordinating committee of this year's law day and Chief Justice Amaraich for choosing Chuuk as the venue of this year's debates.

As always, this year's law day debates brought into Chuuk students from high schools representing all the States in the FSM. From Kosrae High School representing Kosrae State were Ms. Julie D. Anton and Ms. Wanda June S. Linus. From Nahnpei Memorial High School representing Pohnpei State were Mr. Travis Herman and Ms. Judith Chunn. From Yap High School were Mr. Zachary Tman and Ms. Viviana Miginigad. And from Xavier High School representing the host State were Mr. Joshua Terence Libyan and Ms. Kayviann Hallers.

The FSM National Law Day Debates started eighteen years ago and students representing all the states have participated in past years debates. Though a State represented by one of its high schools had won at least once in the past, Kosrae State hold the record for winning the most debates since 1991. Between 2006 and 2009, Kosrae State was declared the champion of the debates in 2007, 2008 and 2009. These bright students were all winners as they all worked very hard preparing for it and did excellent job making their arguments on the proposition. Each of the eight student debaters will receive one thousand dollars. In addition, the coordinating committee of the law day raised additional scholarship funds which will also be distributed among the eight debaters using a formula approved by the committee. Both scholarship moneys will be distributed to the students as soon as the coordinating committee received their letters of acceptance to a college or university including the College of Micronesia-FSM.

In his keynote address, Speaker Figir noted that the law day debates provided a special day dedicated to law in the FSM. He said that it was an honor and a

pleasure to address the audience because he expected great intellectual stimulation from spirited debates on great issues. Speaker Figir referring, to the debate itself, said that the topic may not have been as great as topics debated in the past such as the exclusive economic zone, due process, corporal punishment, and other important sounding issues, but as a long-time legislator he found the topic extremely thought provoking. Speaker Figir added that what is being debated is not about spam and turkey tails but the role and the rule of law as it affects individual lives. The law must be followed whether we like or not. Speaker Figir concluded his remarks by challenging the debaters to take him on the journey of discovery through learned and enlightened arguments.

The 2009 FSM National Law Day concluded in the evening of July 13, 1009 at High Tide restaurant where the Coordinating Committee members joined Chief Justice Amaraich and others in the presentation of the certificates of awards to the debaters. The Chief Justice also told the audience the importance of the debates and the law day over the years. One way to look at it is that the debaters received scholarships, but most of all is their participation in the discussions of issues very important to the development of the Federated States of Micronesia.



Student debaters



12th Judicial Conference cont.

tice Keske Marar of the Chuuk State Supreme Court, Chief Justice Aliksa B. Aliksa of the Kosrae State Court, Chief Justice Benjamin Rodriguez, Associate Justice Nelson Joseph, and Associate Justice Nick Johnny of Pohnpei Supreme Court, Principal Judge Tadasy Yamaguchi, and Associate Judge Gusto Ligohr of the Pohnpei Court of Land Tenure, Chief Justice Cyprian Manmaw and appointed Justice Laurence Kenbaroy of the Yap State Court. Also attended the conference were the Directors, Court Administrators and the key staff of the FSM Courts.

The topics taught and discussed at the conference were: Alternative Dispute Resolution (ADR), Case-flow Management, Court Tools, Judicial Ethics, Customs and Traditions, the FSM Judicial Education Development Plan, and Employee Performance Evaluation.

The lead presenters on Alternative Dispute Resolution, Case-flow Management and Judicial Ethics was the Honorable Charles G. Case II, a United States Bankruptcy Court Judge for the District of Arizona. The Honorable Dennis K. Yamase, Associate Justice of the Supreme Court of the Federated States of Micronesia led the presentations on Customs and Tradition. Kapilly Capelle took the lead in the presentation on Court Tools and Employee Performance Evaluation. Chief Justice Amaraich and Associate Justice Dennis K. Yamase of the FSM Supreme Court, Chief Justice Camillo Noket of the Chuuk State Supreme Court, Chief Justice Aliksa B. Aliksa of the Kosrae State Court, Chief Justice Benjamin F. Rodriguez of the Pohnpei Supreme Court met on the FSM Judicial Education Development Plan and approved trainings proposed for the annual year 2010 for Justices and Court Personnel.

Chief Justice Amaraich told the participants in a closing remark that the FSM Judicial Conference was the result of a collaborative effort of the FSM Supreme Court and the late Senator Wagner Lawrence of the FSM Con-



Participants of the 12th FSM Judicial Conference in Yap

gress. Wasn't it great that this conference resulted from the excellent working relationship of the Judicial and the Legislative branches of the FSM government? Chief Justice Amaraich concluded his remarks saying that the importance of the Judicial Conference is not only that the Justices and key staff of the Courts in the FSM meet to learn and share their experiences, but it was also a time of making lasting friendship with people who took time from their very busy work schedules to teach and share their experiences with justices and staff of the courts in the FSM. Chief Justice Amaraich was referring to Judge Case in his last statement. In a letter of September 10, 2009 to Judge Marshal, Chairperson of the Ninth Circuit Committee on the Pacific Islands. Chief Justice Amaraich said "I take this opportunity to express our sincere gratitude for the services of Judge Charles Case who served as presenter/instructor at our recent FSM Judicial Conference. The Judge did a great job – presenting three very important subjects – ADR, Case Flow Management and Ethics. The Judge possess qualities that are very important to our situation out here in the islands – knowledgeable, patience, understanding, excellent listener, simplicity, responsiveness, serious but able to bring himself down to the level of the "students. We are grateful and hope to make more use of this excellent source in the near future."

Fourth PJC Court Administrators' Training Conference

The Fourth Pacific Judicial Council's Court Administrators' Training Conference was successfully held in Colonia, Yap on June 10-13, 2009. This annual conference as always, brought to the State of Yap participants from member jurisdiction courts of American Samoa, the Commonwealth of the Northern Marianas Islands, the Federated States of Micronesia, the FSM States of Chuuk, Kosrae, Pohnpei and Yap, the Island of Guam, and the Republic of Palau. A three member delegation represented the Republic of the Marshall Islands courts also attended.

The topics of this year's conference were: (1) Core Competencies: What Court Leaders Need to Know and Be Able to Do; (2) Court Community Communication; (3) Introduction to Budget and Finance: A Case Study Approach; (4) The Judicial Budget Process and Budget Development; (5) Financial Information and Reports; (6) Monitoring Your Court Budget; (7) Budget Review: Performance and Evaluation; (8) Ethical Principles and Integrity in the Court Budgeting Process; and (9) Leadership and Coping with a Budget Crisis.

The facilitators included Ms. Janet Cornell, Court Administrator of the Scottsdale City Court, in Scottsdale, Arizona who led the presentations on the topics "Core Competencies: What Court Leaders Need to

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New Certified Trial Counselors

In late July of this Year, a short award ceremony was held for six new graduates of the Trial Counseling Certificate Program at the FSM Supreme Court. The new certified Trial Counselors were Hanky Hadley of Pohnpei, Stanley Michael of Chuuk, Kennedy Nedlic of Mortlock Islands, Edy Nifon of Chuuk, Tipson Sisra of Chuuk and David Welle of Chuuk.

Present during the ceremony were Chief Justice Amaraich, Asst. Justice Yamase, Mr. Joe Habuchmai COM FSM Vice President for Administrative Services, Morehna Rettin Santos, Karen Simion, staffs of the FSM Supreme Court, Trial Counseling staff and instructors, friends and relatives of the graduates.

The Honorable Dennis Yamase was the keynote speaker for the event. Justice Yamase welcomed the graduates to the legal profession. He asked the graduates of the Trial Counseling Program to continue in their commitment to better their communities through the sharing of their knowledge in the law, and to uphold the very high stan-

dards of ethics and conduct that is required for those who practice in the legal field.

Since the implementation of the Trial Counseling Certificate Program in 1999, twenty individuals have successfully completed the program. Many of the graduates of this program are holding key positions in the legal fields of the FSM and its States and other roles in other governmental departments and agencies. Some are advancing their studies abroad.



Chief Justice Amaraich and Asst. Justice Yamase with newly certified trial counselors and Instructors.

SPECIAL PROCEEDING

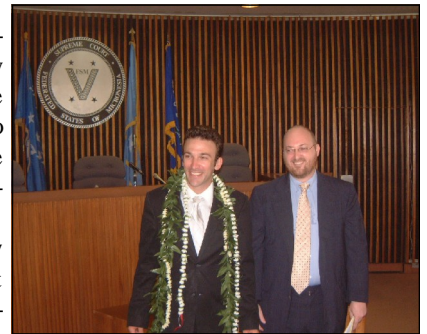
On May 13, 2009 a special proceeding of the FSM Supreme Court was held for an Attorney who took the oath as a new member of the FSM Bar. The proceeding was held at the FSM Supreme Court in Palikir, Pohnpei. Mr. Scot Garvey, Attorney General for Pohnpei State Government moved for the admission of Mr. Ira Shiflet to practice law before the FSM Supreme Court.

The Honorable Dennis K. Yamase, Associate Justice of the FSM Supreme Court presided over the Special Proceeding. He administered the oath to Mr. Ira Shiflet.

Mr. Shiflet graduated with a Bachelor of Arts Degree from University of California, Santa Cruz and later received his JD from the University of Arizona, James E. Rogers School of Law in the year 2005. During his years of law school Mr. Shiflet worked at a law clinic where he was

awarded an Outstanding Community Service Award from the community. He also served as the Vice President of the Criminal Law Association.

After law school, Mr. Shiflet briefly worked in private practice as a defense attorney and then served as a Public Defender for the City of Tucson for two years. Currently, Mr. Shiflet is a member, in good standing, of the Arizona State Bar Association. Mr. Ira Shiflet is an Assistant Attorney General for the Pohnpei State Government.



Mr. Shiflet with Attorney Gen. Garvey

Special Proceeding to admit Coleman and Dorsett

Palikir, Pohnpei ...

A special proceeding was held at the FSM Supreme Court in Palikir, Pohnpei on September 30, 2009 at 3:00 p.m., to admit Michael Coleman and Sarah Dorsett as new members of the FSM Bar. The special proceeding was presided by the Honorable Dennis K. Yamase, Associate Justice of the Supreme Court of the FSM.

In attendance were the Secretary Perman of the Department of Finance and staff of the Division of Revenue, Assistant Attorney General Bacalanto of the Department of Justice of the FSM Government, the Attorney General Garvey and staff of the Office of the Attorney General of the Pohnpei State Government, Director Capelle and staff of the FSM Supreme Court.

Ms. Sarah R. Dorsett is a graduate of the University of Virginia and the University of Baltimore Law School where she received her JD Degree. She had worked in both public and private sectors in the United States including the Office of United States Senator Tom Daschle. She has done volunteer work with organizations working with HIV-Aids victims and others. She is currently Assistant Attorney General and also staff attorney for the Division of Revenue and Taxation of the Pohnpei State Government. Ms. Dorsett is a member in good standing of the Maryland State Bar. She was moved to be admitted by the Attorney General of Pohnpei State, Mr. Scott Garvey. Ms. Dorsett is a member in good standing of the Maryland State Bar.

Mr. Michael James Coleman is a graduate of George Mason University Law School. He received his BA degree

Continue next page....

4th PJC Conference continues

Know and Be Able to Do; Introduction to Budget and Finance: A Case Study Approach; and Budget Review: Performance and Evaluation”; the Honorable Robert Torres, Chief Justice of the Guam Supreme Court facilitated the “Court Community Communication” segment; Mr. Perry C. Taitano, Administrator of the Courts for the Judiciary of Guam led the presentations on “The Judicial Budget Process and Budget Development and Leadership and Coping with a Budget Crisis”; Mr. Kapilly Capelle, Director of Court Administration of the FSM Supreme Court led the presentation on the topic of “Financial Information and Reports”; Ms. Tracy Guerrero, Director of Courts for the CNMI Judicial Branch led the presentations on “Monitoring Your Court Budget and Ethical Principles and Integrity in the Court Budgeting Process.” Also instrumental in this year’s conference was Judge Walsh, a new member of the Pacific Islands Committee who attended the conference as observer. The Pacific Islands Committee is the entity that oversees trainings in the PJC member courts.

The Core Competencies: What Court Leaders Need to Know and Be Able to Do included purposes and responsibilities of the courts; case-flow management; resource, budget, and finance; human resources development; information technology management, to name a few. Purposes and responsibilities of courts is the basis of all other competencies. Case-flow management is the process which begins with the filing of a case to its closure. The resources, budget, and finance presentation concentrated on the court budget processes from the beginning at budget submission to allocation, acquisition, and management which impacts every operation and determines how well, and whether courts achieve their mission statements. Human resource is a very

important competency because courts need good people, people who are competent, up-to-date, professional, ethical, and committed. Information technology management helps courts do what they do faster, cheaper, and better.

The community court outreach program portion of the conference emphasized the importance of understandable courts – a community outreach program, developed by the Guam Supreme Court. Such a program by any court should be mindful of the roles the justices play, the community, and other stakeholders such as bar associations, schools, government agencies, and church groups. The Judiciaries of Guam have developed a community outreach program involving school children in Guam. This outreach program worked very well with the school children in Guam. The same outreach program used for the school children, we learned during the conference, was also used successfully in a presentation to the Guam Chamber of Commerce. Simply put, this particular program was simple. It involves school students in a mock trial, but it gave the students an important message on the rule of law. This program is called “children at risk – The Juvenile Justice System”, it was prepared for and, shown during the Law Week 2008 in Guam. The students took parts in the program as the Judge, the Prosecutor, the Defense Counsel, a Police Officer, a Bailiff, a Court Clerk and the Jurors. Chief Justice Torres, author of the program said that if the program saves one child in the future, then the program is worth the effort.

The conference provided valuable information on the roles and responsibilities of courts, courts’ budgets – process, development, performance and evaluation. Understanding the important steps involved in the budget process will help court administrators and supervisors process, develop, monitor and evaluate their courts’ budgets more effectively.

Special proceedings story continues.

in economics from the University of Virginia. He was once advisor to the Committee on Judiciary of the United States Senate. He is currently a member in good standing of the Virginia State Bar. He was moved to be admitted by Mr. Leonito Bacalanto, Assistant Attorney General of the FSM Department of Justice. Both Mr. Coleman and Ms. Dorsett sat and passed the FSM Bar Written Examination administered on August 6, 2009.

The Special Proceeding ended with the presentation of the FSM Bar Certificates by Chief Clerk Keller of the FSM Supreme Court and a short remark by Associate Justice Yamase who welcomed both Ms. Dorsett and Mr. Coleman to the FSM Bar, adding that the FSM Bar is very small and he hopes that both new members contribute to the bar in every area of the law; help educate the populace on how the judicial system work. Associate Justice Yamase said that he is very concern for the lack of interest of students going to the U.S. law schools. In the past, Justice Yamase had given seminars to students on certain topics of the law. He said that some attorneys on the islands are involved in teaching the COM-FSM Trial Counselor Certificate Program at the College. He concluded by welcoming both Ms. Dorsett and Mr. Coleman to the bar and hoped that they find their time in the FSM rewarding.



APPELLATE DIVISION OF THE FSM SUPREME COURT

Appeal Case C3-2008

Weno, Chuuk ...

Oral argument in Appeal Case No.C3-2008, Frank Cholymay and Roosevelt D. Kansou, (Appellants) vs. Federated States of Micronesia, (Appellee), was held on July 10, 2009 at 9:30 a.m. Mr. George Isom of the FSM Public Defender Office in Chuuk State appeared on behalf of Appellant Frank Cholymay, Miss Melisa A. Dineen Staff Attorney of the FSM Public Defender Office in Pohnpei State appeared on behalf of Appellant Roosevelt D. Kansou and Mrs. Lorrie Johnson-Asher, Assistant Attorney General of the FSM Department of Justice appeared on behalf of the Appellee. Both appellants were also present.

The appellate panel comprised of the Honorable Martin G. Yinug Associate Justice of the Supreme Court of the Federated States of Micronesia, the Honorable Aliksa B. Aliksa and the Honorable Benjamin Rodriguez, Temporary Justices of the Supreme Court of the Federated States of Micronesia. The Honorable Benjamin F. Rodriguez is the current Chief Justice of the Pohnpei Supreme Court recently confirmed by the Seventh Pohnpei Legislature earlier this year, and the Honorable Aliksa B. Aliksa is the Chief Justice of the Kosrae State Court.

Appeal Case C2-2009

On May 4, 2009 a hearing on Appeal Case No. C2-2009, Senator Moses Nelson, (Appellant) vs. FSM National Election Director, Mr. Kimeuo Kimiuo (Appellee), and Mr. Tony Otto (Real Party in Interest) was held. Miss Marstella Jack Attorney-at-Law appeared on behalf of the Appellant, Mr. Steven V. Finnen of the Finnen Law Firm appeared on behalf of the FSM National Election Director, and Mr. Joseph Phillip Attorney-at-Law appeared on behalf of tony Otto, real party in Interest and Mr. June Bacalanto, appeared on behalf of the Department of Justice of the Federated States of Micronesia which submitted an Amicus Curiae. Appellant Moses Nelson,

Tony Otto, real party in interest, and Kimeuo Kimiuo (appellee) were also present during the argument.

The Appellate Panel comprised of the honorable Andon L. Amaraich, Chief Justice of the FSM Supreme Court the honorable Martin Yinug and the honorable Ready E. Johnny, Associate Justices of the FSM Supreme Court.

At the outset, Ms. Jack moved that Mr. Leonito Bacalanto who was appearing on behalf of the FSM Department of Justice be allowed to sit and listen but will not be allowed to speak at the hearing because had disqualified himself. Chief Justice Amaraich ruled from the bench that Mr. Bacalanto will not be allowed to argue the case.

Appeal Case C5-2008

Weno, Chuuk ...

Oran argument in Appeal Case No. C5-2008 was held on July 10, 2009 in Wesley Simina et al, (Appellant) vs. Kimeuo Kimiuo (Appellee). Mr. Joses Gallen Attorney General for the State of Chuuk appeared on behalf of the appellant and Mr. Salomon Saimon Directing Attorney of the Micronesian Legal Services Corporation in Chuuk State appeared on behalf of the Appellee. The appellant and the appellee were also present during the arguments.

The appellate panel in this appeal comprised of the Honorable Andon L. Amaraich, Chief Justice of the Supreme Court of the Federated States of Micronesia, the Honorable Martin G. Yinug and the Honorable Ready E. Johnny, Associate Justices of the Supreme Court of the Federated States of Micronesia.



Penal for Appeal Case p1-2008 L to Right: Chief Justice Camillo Noket, Asst. Justice Martin G. Yinug, & Asst. Justice Ready Johnny

APPEAL CASE P1-2008

The Supreme Court of the Federated States of Micronesia, appellate division, went into session on July 9th of this Year. The matter that was before the appellate court was appeal case number P1-2008. The Appellants in this matter are Robert C. Arthur, Patricia Arthur, Bethwel Henry, and Marihne Henry and the appellee is the FSM Development Bank.

The proceeding was set for Oral Arguments from both parties to be heard by the panel. Assisting the appellants in the matter was Mr. Douglas Cushnie, attorney at law, and assisting the appellee is Mr. Mike Sipos, attorney at law.

The presiding judges for this matter were Associate Justices of the FSM Supreme Court Martin G. Yinug and Ready Johnny and the Chief Justice of the Chuuk State Supreme Court who was acting as a temporary Judge on the panel.

President of FIAV visited the Court



Mr. Michel Lupant, President of the Federation of International Association of Vexillology visited Chief Justice Amaraich in Palikir, Pohnpei on July 28, 2009 at 10:00 a.m. The Federation of International Association of Vexillology is an association whose interests are in the history of flags from all over the world. The association comprised of all the vexillological associations of many countries, including the United States of America, Countries in South

America, Europe, Japan and Australia. The association has a congress which holds its general assembly meetings every two years. The latest general assembly meeting was held in Japan in July 2009. Mr. Lupant is also the founder of CEBED, an organization he founded in order to share information he collected on vexillology. Mr. Lupant was very knowledgeable about flags of different countries in the world. He said that one of the most important rules of flags is that when different flags are raised in one spot like outside a government building, they should all be of the same size. Chief Justice Amaraich presented Mr. Lupant a mini flag of the Federated States of Micronesia as a souvenir.

Staff Attorney leaves the FSM Supreme Court

Palikir, Pohnpei ...

The FSM Supreme Court on Thursday, October 1, 2009 hosted a luncheon in honor of Matthew McOmber, a staff attorney of the Court for the past year who left the Court on Friday, October 2, 2009. Matthew came to the Federated States of Micronesia on a one year contract for the Court. In his short statement, Matthew thanked the FSM Supreme Court and the staff for their good working relationship during his time here.

The staff of the Court joined the Chief Justice Amaraich in thanking Matthew for his service to the Court and the Federated States of Micronesia and wished him well in

his future endeavors. In closing the short program, Chief Justice Amaraich said "it was always a sad time to say goodbye, especially people who contributed to a working relationship, but we take pride in our situation – in this country, knowing that there are people still willing to leave their mother land to help those in need. Matthew is one of those people." But we should be grateful that our limitations have been offset in many ways in the fact that we face these problems with the best of our ability to control the responsibilities to the court. The Chief Justice wished Matthew and his wife Courtney and the expected child the best referring to their first child they are expecting early next year to his new family.

General Counsel Weber

The Acting General Counsel for the Supreme Court of the Federated States of Micronesia, Mr. Ben Weber after 14 years of employment in the FSM completed his contract and returned to the United States. Mr. Weber was first hired in 1995 by the Yap State Court as a staff attorney. Two years later, he was hired by the FSM Supreme as staff attorney stationed in Yap and after eight years in Yap Mr. Weber was transferred to the FSM Supreme Court in Palikir Pohnpei. Mr. Ben Weber was appointed Acting General Counsel for the FSM Supreme Court in August 2008 until his departure in August of this year.

In a farewell gathering honoring Mr. Weber, Chief Justice Andon L. Amaraich thanked Mr. Weber for his valuable service and contribution to the National Judiciary and the FSM.



Left to Right: Ben Weber, Courtney McOmber, Mathew McOmber, and Chief Justice Amaraich

NOTICE OF THE FSM SUPREME COURT BAR EXAMINATION TO BE ADMINISTERED ON MARCH 4, 2010

Notice is hereby made to the general public that the FSM Supreme Court written examination for admission to practice law before the Supreme Court of the Federated States of Micronesia is schedule to be administered on MARCH 4, 2010.

Applications for the examination are to be filed with supporting documents and application fee of \$25.00, in the Office of the Chief Clerk of Courts of the FSM Supreme Court in Palikir, Pohnpei at least 30 days before the date scheduled for written examination, on or before February 2, 2010, although upon showing of good cause, the Court may permit filing of applications and documents after that time.

It is anticipated that the examination will be administered in Pohnpei, Chuuk, Yap and Kosrae, assuming there are applicants who wish to take the exam in all four states.

Chinese Ambassador visits the Court



H.E. Zhang Weidong and Chief Justice Amaraich

On September 07, 2009, the new Ambassador from China to the Federated States of Micronesia, H.E. Zhang Weidong, paid a courtesy call on the FSM Chief Justice, the Hon. Andon L. Amariach in his chambers in Palikir. In attendance were Mr. Wang of the China Embassy and Mr. Capelle, Director of the FSM Supreme Court.

Chief Justice Amaraich joined the FSM President and the FSM Speaker to welcome the Ambassador to the FSM and to his chambers and expressed appreciation for making time for this very important visit with him.

The Ambassador thanked Chief Justice for the cordial reception and expressed his gratitude for being warmly received and welcomed into this country. He indicated that visits and exchanges between the leaders of China and FSM are very important to maintain and strengthen good relations. "I like my new assignment to this country, warm weather and I find the people here very friendly" said the Ambassador.

This will be the Ambassador's first time to be posted in the Pacific and he is very happy about it. His former assignments with the China Foreign Ministry included Main Counselor for the China Embassy in Canada, 1st Secretary in Austria and 3rd Secretary in Switzerland.

The Ambassador was very pleased to announce that September 15, 2009 would mark a significant milestone in the relations of these two countries, marking 20 years of diplomatic relations. "Our relations are good and getting stronger, it is a very good sign". Ambassador indicated that the relationship is very important and special because both China and FSM are partners as two developing countries and he hopes he can make a difference to strengthen it. He asked the support of the national and state leadership to make his assignment and stay in the FSM a successful and fruitful one.

Chief Justice thanked the Ambassador and the China Government for helping FSM and its states. "Your presences and help here in the FSM are very visible. You can look around and see them. You should be proud and FSM should be thankful", said the Chief Justice. On a more personal note Chief Justice expressed a special feeling about the diplomatic relations he worked so hard to spearhead. "It was a big challenge but a good policy. It is so good to see that the policy to establish diplomatic relations with China is working", he added.

POHNPEI MUNICIPAL AND LAND COURT JUDGES TRAINING



U.S. Ninth Circuit Court of Appeals.

Presenters for the training were Associate Justice of the FSM Supreme Court the Honorable Dennis K. Yamase, Chief Justice of Pohnpei Supreme Court the Honorable Benjamin Rodriguez, Staff Attorney of the FSM Supreme Court Mr. Mathew McOmber, Chief law Librarian Mr. Ataraino Heliazer, and Honorable Semi Epati, Judge of New Zealand District Courts.

During the week long training, participants received training on topics such as The Roles of Local and Land Courts, Judicial Conduct and Independence, Judicial Ethics, Due Process of the Law. Aside from topics relevant to the judiciary, participants also had the chance to share common situations in their jurisdictions and solutions.

The first three days of the training was held at the Yvonne's Conference Room and the remaining two days were at Kolonia Court during which participants had the opportunity to participate in mock trials. The 2009 Judges training was concluded with an award ceremony at the Nihco Marine Park.

Kolonia, Pohnpei.

From June 29th to July 3rd 2009, a training was held in Kolonia for Local Court Judges of Pohnpei. The participants of the training were judges from the Pohnpei Court of Land Tenure, Sokehs Municipal Court, Kolonia Town Court, Nett District Court, U Municipal Court, Madolenihmw Municipal Court, Kitti Municipal Court, Mwaokillao Municipal Court, Pengilap Municipal Court. Also participated in this training were two Land Court Judges from Kosrae, two municipal judges from Chuuk, and a state temporary judge and a municipal judge from the State of Yap. The training was organized and conducted by the FSM Supreme Court with funding from the

Pacific Judicial Council Court Interpreter 's Training

From September 23rd to the 25th, the Pacific Judicial Council conducted a training for Court Interpreters at the Holiday Resort and Spa in Tamuning Guam. Participants of the training were from the Pacific Judicial Council member jurisdictions which include participant from Palau, CNMI, Guam, American Samoa, FSM and its four States. A total of nineteen participants from the FSM National Judiciary and its state judiciaries participated in the training.

The trainers for the training were Debi Tulang-De Silva, J.D. and Dr. Suzanne M. Zeng. Debi Tulang-De Silva is currently the Director of the Office on Equality and Access to the Courts (OEAC) at the Hawaii State Judiciary. She is an instrumental player in the establishment of the Hawaii State Judiciary's very first court interpreter certification program. Ms. Tulang-De Silva also serves as a primary staff for the Hawaii State Judiciary's Supreme Court Committee on Court Interpreters. Dr. Suzanne M. Zeng is with the University of Hawaii Center for Interpretation and Translation Studies (CITS). Dr. Zeng has conducted numerous workshops on interpreter training and on learning to work with interpreters. Dr. Zeng is also a member of the Supreme Court Committee for Court Interpreters and was actively involved in helping establish high standards and certification for Hawaii State Court Interpreters.

Some of the subjects that were covered during the three day training include Ethics and Role of the Inter-

preter, Model Code of Professional Conduct, Professionalism, Cultural Issues and language, Modes of Interpreting and building interpreting techniques. During the training participants had the opportunity to visit the Superior Court of Guam where they actually sat in Court and witness proceedings with translations.

Participants were presented certificates by Honorable F. Phillip Carbullido, Associate Justice of the Supreme Court of Guam and Chairman of the Pacific Judicial Council Education Committee.



The fourth issue of the Newsletter carried this photograph of Can You ID? No response or identification of the photo was received. The photo is the picture of the FSM Supreme Court vehicle which was formerly used by Chief Justice Amaraich. The question was "CAN YOU IDENTIFY HOW OLD THIS VEHICLE IS? AND WHAT IS SIGNIFICANT ABOUT THIS?" The answer is: The vehicle is over 17 years old. The Court purchased it in 1992 when Chief Justice Amaraich was appointed to be a Judge in the FSM Supreme Court. Today after seventeen years the vehicle is still in good condition and reliably in service. The significance of that is, if government property is maintained and well used, it should be able to last.

Can You Identify where this is? And what is significant about this ? (FSM Supreme Court Personnel are prohibited from participating)



Write answer in letter format and address it to the Office of the Chief Justice. Letter should be able to identify picture and tell the significance of the photo. (See last page for mailing address)

ABOUT THE LAW

The last About the Law segment discussed Rule 36 of the FSM Rules of Civil Procedure. That rule provides for the discovery tool called requests for admission, which is the last discovery tool allowed under the rules. But the next question becomes, what happens if a party to a lawsuit refuses to comply with the discovery requests that the other party makes?

If a party is prevented from finding out about the other side's case, then that party will be at a disadvantage. Sometimes this happens, and when it does, the party who has been denied discovery may file a motion to compel. Such a motion asks the court to issue an order that forces the other party to do what that party is supposed to do, whether that means submitting to a deposition, answering interrogatories, or allowing inspection of documents or property. If the motion is granted, then the court is required to make the person who refused to provide the information pay the expenses of the party who was required to file the motion to compel. This can include the reasonable attorney's fees of the party who filed the motion. If the court does not award these expenses, then it must find that the conduct of the person who did not provide the discovery was justified, or that other circumstances make the award of the expenses unjust.

On the other hand, if the court denies the motion, the court is required to make the party who filed the motion pay the expenses of the party who opposed the motion. This can include the opposing party's reasonable attorney's fees. And just as in the case where the court grants the motion, if the court does not award the reasonable expenses incurred by the other party in opposing the motion, then the court must state why it is not awarding the expenses. In other words, if the parties get into a dispute over discovery and have to ask the court to resolve the issue, the loser generally pays the expenses of the winner. This is intended to make parties cooperate so that discovery disputes are kept to a minimum.

What happens if the court issues an order requiring a party to comply with certain discovery requirements, but the party still refuses? Rule 37 also provides for this. Among other things, the court can determine that certain facts will be deemed to be established. This means that the party who is harmed by the failure to comply with discovery will not have to prove these facts at trial. In extreme cases, the court can also dismiss a case, or grant judgment in favor of a party.

The next rule of civil procedure is Rule 41. The first question that one asks is, how can Rule 41 be the next rule, when the last rule was 37? That is because our FSM Civil Rules are modeled on the U.S. Rules of Federal Procedure. U.S. Federal Rules 38 and 39 deal with jury trials, which we do not have in the FSM, while Rule 40 deals with the way cases are assigned for trial under U.S. law. Because decisions that interpret the various U.S. rules can be useful in interpreting the FSM rules, it causes less confusion to keep the rule numbering the same, and just delete those rules that the FSM has not adopted. This means that there are "holes" in the FSM Rules. For example, the next "hole" in the rules comes after Rule 46 – Rule 52 immediately follows Rule 46.

Rule 41 discusses the dismissal of cases. A dismissal means that the case is ended, and that there is nothing left for the court to do. Rule 41 allows for two types of dismissals, voluntary and involuntary. A voluntary dismissal most often occurs when the parties to a lawsuit reach an agreement. In that case there is no longer a need for the court to be involved, so the case is dismissed. The way the parties obtain this type of dismissal is by filing something called a stipulation with the court, which merely says that the parties agree to have the case dismissed. There is also an involuntary dismissal. This most often happens when the plaintiff fails to go forward with the case, and the court dismisses the case for lack of prosecution. However, the defendant at trial may also request an involuntary dismissal after the plaintiff has presented all of its evidence. In such a case, the defendant asks the court to dismiss the case on the basis that the plaintiff has shown no right to relief. In other words, even looking at all of the evidence, there is still no reason for the court to do what the plaintiff is asking it to do.

The next About the Law segment will begin with a discussion of the next rule, which is Rule 42.

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