

In addition, the FSM national government may, if it so chooses, present this Court with its *amicus curiae* brief on the issue of the Defendant's immunity from suit, including the presentation of any diplomatic notes recognizing the Defendant's diplomatic status. The deadline for such a submission by the FSM national government shall be thirty days from the date that this Order is received. The *amicus curiae* brief of the FSM national government shall *not* be e-filed with the Court, but instead shall be filed in person with the clerk of court. In addition, the *amicus curiae* brief shall be served on counsel for each party by hand delivery, rather than mail. Thereafter, the parties may each have ten days from the date that the FSM national government's *amicus curiae* brief is served upon them in which to file their respective response.

As discussed above, a hearing is hereby scheduled for June 2, 2021, at 10:00 o'clock a.m. The FSM Attorney General may appear at that proceeding, along with a representative of the FSM Department of Foreign Affairs who is authorized and prepared to testify as to the Defendant's apparent claim of diplomatic immunity. The parties, if they so choose, may also present evidence and testimony in support of their respective position on this matter. See FSM Civ. R. 45 (issuance of subpoenas). At the conclusion of the hearing, the Court will, if necessary, address the scheduling of future proceedings in this case with the parties.

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FSM SUPREME COURT TRIAL DIVISION

|   |   |                           |
|---|---|---------------------------|
| FEDERATED STATES OF MICRONESIA            | ) | CIVIL ACTION NO. 1996-060 |
| DEVELOPMENT BANK,                         | ) |                           |
|   | ) |                           |
| Plaintiff,                                | ) |                           |
|   | ) |                           |
| vs.                                       | ) |                           |
|   | ) |                           |
| YOSILYN CARL, as the administrator of the | ) |                           |
| estate of Linda Carl, the ESTATE OF LINDA | ) |                           |
| CARL, and the ESTATE OF YOSHIRO CARL,     | ) |                           |
| thru its administrator Fred Carl,         | ) |                           |
|   | ) |                           |
| Defendants.                               | ) |                           |
| _____                                     | ) |                           |

ORDER DISPOSING OF PENDING MOTIONS; SUBMISSION OF BRIEFS ON CONFLICT-OF-INTEREST ISSUES

Dennis K. Yamase  
Chief Justice

Decided: April 21, 2021

APPEARANCES:

|                    |  |
|--------------------|--|
| For the Plaintiff: | Nora E. Sigrah, Esq.<br>P.O. Box M<br>Kolonias, Pohnpei FM 96941 |
|--------------------|--|

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FSM Dev. Bank v. Carl  
23 FSM R. 240 (Pon. 2021)

For the Defendant: Yoslyn G. Sigrav, Esq.  
(Yosilyn Carl) P.O. Box 3018  
Kolonias, Pohnpei FM 96941

For the Defendant: Vincent Kallop, Esq.  
(Estate of Y. Carl) Micronesia Legal Services Corporation  
P.O. Box 129  
Kolonias, Pohnpei FM 96941

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#### HEADNOTES

##### Attachment and Execution – Garnishment; Civil Procedure – Motions; Civil Procedure – Parties

A defendant lacks any standing to challenge or seek reconsideration of the court’s contempt-of-court finding made against the garnishee, as the court’s contempt finding does not concern the defendant. FSM Dev. Bank v. Carl, 23 FSM R. 240, 244 (Pon. 2021).

##### Judgments – Action on a Judgment; Statutes of Limitation

An action on a judgment may be maintained at any time up to twenty years from the date that the judgment was entered. FSM Dev. Bank v. Carl, 23 FSM R. 240, 244 (Pon. 2021).

##### Judgments; Judgments – Action on a Judgment

When a new judgment has been entered in an action on a judgment, the original judgment has been superseded and is no longer enforceable. FSM Dev. Bank v. Carl, 23 FSM R. 240, 244 (Pon. 2021).

##### Civil Procedure – Motions

A reply to an opposition to a motion is not authorized by the Civil Procedure Rules; nor is it prohibited. The court considers replies permissible. FSM Dev. Bank v. Carl, 23 FSM R. 240, 245 (Pon. 2021).

##### Civil Procedure – Motions – For Reconsideration

To the extent that they are allowed, motions for reconsideration must be narrowly construed and strictly applied in order to discourage litigants from making repetitive arguments on the same issues that have been thoroughly considered by the court. FSM Dev. Bank v. Carl, 23 FSM R. 240, 246 (Pon. 2021).

##### Civil Procedure – Motions – For Reconsideration

A Rule 59(e) motion may not be used to relitigate old matters, and arguments that could have been raised before may not be raised for the first time in a motion for reconsideration. In addition, a mere disagreement with the court’s application of a legal standard does not support a motion to reconsider. FSM Dev. Bank v. Carl, 23 FSM R. 240, 246 (Pon. 2021).

##### Civil Procedure – Motions – For Reconsideration

When there is nothing in a defendant’s motion for reconsideration which the court either overlooked or misconstrued and, the defendant’s attempts in her reconsideration motion to show that the garnishee was no longer in privity with the borrowers as their lessee only confirms that the garnishee was, in fact, making monthly payments, the motion for reconsideration is denied. FSM Dev. Bank v. Carl, 23 FSM R. 240, 246 (Pon. 2021).

##### Attorney’s Fees – Court-Awarded

There is flexibility to modify the normal rule that each party pays its own attorney’s fees when justice requires, including for willful violation of a court order. FSM Dev. Bank v. Carl, 23 FSM R. 240, 246 (Pon. 2021).

2021).

Attorney and Client – Disqualification of Counsel

A lawyer cannot represent multiple clients with conflicting or potentially conflicting interests in the same matter unless the lawyer reasonably believes the representation will not be adversely affected and the client consents after consultation. When representation of multiple clients in a single matter is undertaken, the consultation must include explanation of the implications of the common representation and the advantages and risks involved. FSM Dev. Bank v. Carl, 23 FSM R. 240, 247 (Pon. 2021).

Attorney and Client – Disqualification of Counsel

The test for a lawyer to determine whether a conflict of interest exists in representing more than one client is found in FSM MRPC Rule 1.7. FSM Dev. Bank v. Carl, 23 FSM R. 240, 247 (Pon. 2021).

Attorney and Client – Disqualification of Counsel; Attorney Discipline

The court has a duty, in accordance with the Model Rules of Professional Conduct, to regulate the conduct of the attorneys who practice before it, and this duty cannot be defeated by a private party's laches, although in an extreme case it may be given some weight. FSM Dev. Bank v. Carl, 23 FSM R. 240, 247 (Pon. 2021).

Contempt – Civil

When, in order to purge the contempt-of-court finding against him, the contemnor must pay \$4,500, the contemnor, if this payment is not made in full, may be taken into custody forthwith and imprisoned at the Pohnpei state jail until he has purged the contempt-of-court finding against him – until he has paid at least \$4,500. FSM Dev. Bank v. Carl, 23 FSM R. 240, 247 (Pon. 2021).

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COURT'S OPINION

DENNIS K. YAMASE, Chief Justice:

*A. Background and Overview of Court Order*

On March 25, 2021, the Court issued an Order in the above-captioned case requiring each party to submit its respective position on whether any further post-judgment enforcement action should be taken by the Court, including the contempt-of-court finding against Kazuhiro Fujita, as the garnishee for certain funds that he was required to pay to the Federated States of Micronesia Development Bank (“Development Bank”) in satisfaction of the judgment entered in this case. The funds in question were monthly rent payments of \$500 that were otherwise due and owing the two above-referenced estates of Yoshiro Carl and Linda Carl. Each party was required to submit its position within 10 days from the date that the Court’s Order was received.

To date, the Court has received submissions from the Federated States of Micronesia Development Bank, the estate of Yoshiro Carl, through its administrator Fred Carl, and Yosilyn Carl, who is the administrator of the estate of Linda Carl. For their part, the Development Bank and the estate of Yoshiro Carl state that they wish to seek enforcement of the Court’s July 9, 2018 contempt-of-court finding against Kazuhiro Fujita for his failure to abide by the garnishment ordered issued by the Court on March 13, 2017. According to the Development Bank, in its submission at issue here, it never received any payments from the garnishee Kazuhiro Fujita; similarly, in its submission, the estate of Yoshiro Carl also maintains that it did not receive any payments from the garnishee, Mr. Fujita. On the other hand, Yosilyn Carl states that she believes that the Court should grant her request for reconsideration which was filed after the Court found Mr.

Fujita to be in contempt of court, and, in turn, take no further action with regard to this matter.

As requested by the Development Bank, the Court will schedule further proceedings in connection with the contempt-of-court finding against Mr. Fujita. In order to do so, and for the reasons stated below, the Court hereby disposes of all the pending motions now before it, including denying the motion for reconsideration filed by Yosilyn Carl as well as awarding the Development Bank the costs and attorney's fees it incurred in connection with the Court's contempt-of-court finding against Mr. Fujita. In addition, the parties are required to submit their respective briefs to the Court on the apparent conflict-of-interest issues that have arisen from Ms. Sigrah's concurrent representation of the various parties and other individuals who have not been named as parties to this litigation, within 10 days from the date that this Order is received. Lastly, and as explained below, the Court will issue a Scheduling Order in this case to provide for the adjudication of the remaining issues pending before the Court at a later date.

*B. Procedural Background and Review of Pending Pleadings*

At issue in this case was the satisfaction of a judgment entered by the Court on February 11, 1999, in favor of the Federated States of Micronesia Development Bank, and against Yoshiro Carl and Linda Carl, in the amount of \$45,137.79. This judgment arose from a loan that Yoshiro and Linda Carl applied for, and obtained, from the Development Bank. When the borrowers defaulted on the loan, the Development Bank filed this case seeking to recover what it is lawfully owed by the borrowers. The judgment in this case was never appealed.<sup>1</sup>

An Order in Aid of Judgment was also entered by the Court on February 11, 1999. This Order in Aid of Judgment was later amended to provide that the \$500 monthly lease payments made to the Defendants, from their tenant, Kazuhiro Fujita, were to be submitted instead directly to the Plaintiff towards the satisfaction of the outstanding judgment in this case.

Thereafter, on July 9, 2018, the Court found the garnishee, Mr. Fujita, in contempt of court for failing to remit the lease payments in question to the Plaintiff. [*In re Contempt of Fujita*, 21 FSM R. 634 (Pon. 2018).] This finding was made based upon evidence and testimony adduced by the parties at a hearing on January 18, 2018. In its Order finding Mr. Fujita in contempt of court, the Court specified that if Mr. Fujita paid the Plaintiff a total of \$4,500, or \$500 per month for a period spanning nine months, or from May 2017, to January 2018, then his contempt of court would be purged.<sup>2</sup>

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<sup>1</sup> Instead, an appeal was filed on March 13, 2017, after the Court issued an Order granting the Plaintiff's request for a writ of execution. That appeal is captioned as: Linda Carl et al. v. Federated States of Micronesia Development Bank, Appeal No. P2-2017. That appeal, however, was dismissed June 18, 2018, based upon the Appellants' failure to request a transcript or file their statement of issues on appeal. FSM App. R. 10. In addition, following the death of Yoshiro Carl and Linda Carl, the estate for each of the respective decedent-defendants was substituted as the real parties in interest in this case, as reflected in the caption above. Yosilyn Carl is the administrator for the estate of Linda Carl, while Fred Carl is the administrator of the estate of Yoshiro Carl.

<sup>2</sup> In its Order of July 9, 2018, the Court also scheduled an additional contempt proceeding on August 13, 2018, for Yosilyn Carl's attorney, Yoslyn Sigrah, Esq., to appear and show cause why she should not also be adjudged in contempt of court for violating the Court's Order in Aid of Judgment, including its garnishment order directed at Mr. Fujita. [*In re Contempt of Fujita*, 21 FSM R. 634 (Pon. 2018).] The record from the January 18, 2018 hearing in this case showed that Ms. Sigrah was also apparently complicit in a scheme with Mr. Fujita to disobey the Court's garnishment order, including purportedly advising Mr. Fujita, whom she concurrently represented along with numerous people, who are both parties and non-party witnesses to this case, whom to issue his rent payments to. Indeed, the evidence adduced at the hearing shows that Ms. Sigrah, herself, apparently accepted some of the rent payments that Mr. Fujita was required to make to the Development Bank, and, in turn, disbursed

In addition, on July 12, 2018, the Development Bank applied for an award of attorney's fees and costs that it incurred in connection with the contempt-of-court proceeding at issue here. This submission totals \$2,608.79, including costs of \$133.79, and attorney's fees of \$2,475.00.

The record, however, shows that the Defendant, Yosilyn Carl, rather than the garnishee, Kazuhiro Fujita, sought reconsideration of the Court's contempt-of-court finding, which the Plaintiff opposed. This pleading was filed on July 19, 2018. By all accounts, however, Yosilyn Carl lacks any standing to challenge the contempt-of-court finding that was made against Mr. Fujita, as the Court's finding does not concern her. This request for reconsideration, however, may have come about as a result of the concurrent legal representation provided to Ms. Carl, as well as the estate of Linda Carl, itself, and the garnishee, Mr. Fujita, by Yoslyn Sighrah, Esq. In addition, the record also shows that Ms. Sighrah is apparently representing several additional heirs of Yoshiro and Linda Carl, who are not named as parties to this case.

The record shows that on July 26, 2018, the Development Bank timely opposed Yosilyn Carl's motion to reconsider the contempt-of-court finding against Mr. Fujita. Thereafter, on August 14, 2018, Ms. Carl submitted an affidavit from her sister, McLinda Carl, in furtherance of her motion for reconsideration of the contempt-of-court finding against Mr. Fujita. The Development Bank, in turn, on August 23, 2018, filed a supplement to its previously-filed opposition pleading, in which it objected to the submission of the affidavit of McLinda Carl. From there, on September 10, 2018, the Defendant Yosilyn Carl filed a reply pleading to the Development Bank's opposition pleading, including a requested enlargement of time in which to submit her reply pleading. On September 12, 2018, the Development Bank filed a status report for this case, in which it reported that the garnishee, Mr. Fujita, had not only failed to make his monthly lease payments to the Development Bank following the entry of the Court's July 8, 2018 Order finding him in contempt, but that he also failed to make the \$4,500 payment to purge his contempt-of-court finding. Thereafter, on October 16, 2018, the Development Bank submitted its surreply to the Defendant Yosilyn Carl's September 10, 2018 filing, which, as noted above, was denominated as a reply and motion for enlargement of time to file reply pleading. In its pleading, the Development Bank sought to have the reply pleading in question stricken from the record of the case based upon the untimely manner in which the reply pleading was served.

Thereafter, in 2019, while above-captioned case was pending, the Development Bank initiated an independent action upon the Judgment that was previously entered in this case. That case is captioned as: Federated States of Micronesia Development Bank v. Yosilyn Carl et al., Civil Action No. 2019-003. On December 30, 2019, the Court in the case of FSM Development Bank v. Yosilyn Carl et al., Civil Action No. 2019-003, entered judgment in favor of the Development Bank and against Yosilyn Carl in the amount of \$50,215.98. An appeal was filed on February 10, 2020: Carl v. FSM Development Bank, Appeal No. P2-2020. This appeal remains pending today.

Because the case of FSM Development Bank v. Yosilyn Carl et al., Civil Action No. 2019-003, is an action on a judgment, and because an action on a judgment may be maintained at any time up to twenty years from the date that the judgment was entered under 6 F.S.M.C. 802(1), see Senda v. Creditors of Mid-Pacific Constr. Co., 7 FSM R. 664, 672 (App. 1996) (“[a]n action on a judgment may be maintained up to twenty years after the date of entry of the judgment”), the Court required each party to submit its position on whether further action should be taken by the Court in this case with regard to the contempt-of-court finding against Kazuhiro Fujita. Indeed, since a new judgment was entered in the case of FSM Development Bank v. Yosilyn Carl et al., Civil Action No. 2019-003, it appeared that the original judgment entered in the matter at hand has been superseded and is no longer enforceable. See 47 AM. JUR. 2D *Judgments* § 945, at 408 (rev. ed. 1995) (“Generally, the main purpose of an action on a judgment is to obtain a *new* judgment, which

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them to other individuals in defiance of the Court's order. This August 13, 2018 show cause hearing, however, was later vacated by the Court, subject to rescheduling in the future.

will facilitate the ultimate goal of securing satisfaction of the original cause of action.”) (emphasis added). The contempt-of-court finding against Kazuhiro Fujita, however, nonetheless remained ripe for further adjudication. As noted above, the parties each filed their respective position on the future proceedings in this case.

*C. Disposition of Pending Motions*

*1. Defendant’s Supplemental Pleading and Reply Pleading*

As an initial matter, the Defendant Yosilyn Carl’s pleadings of August 14, 2018, and September 10, 2018, are hereby stricken from the record, as requested by the Development Bank, in its pleadings of August 23, 2018, and August 16, 2018, respectively, pursuant to FSM Civil Rule 12(f). As noted above, the August 14, 2018 pleading is a purported affidavit from the Defendant Yosilyn Carl’s sister, McLinda Carl, which is offered in support of the Defendant Yosilyn Carl’s motion for reconsideration of the contempt-of-court finding against the garnishee, Mr. Fujita. The matters stated in the affidavit, however, are not matters that were presented at the January 18, 2018 hearing in this case. Thus, the Development Bank has not been afforded with an opportunity to cross examine this witness about the testimony which she purports to offer in this case. In addition, the affidavit also fails to include new matters which arose after the January 18, 2018 hearing in question. Instead, as altogether new evidence that was not presented at the January 18, 2018 hearing, the submission of this affidavit cannot be for the purpose of having the Court reconsider something that it may have previously overlooked. See *Herman v. Municipality of Patta*, 16 FSM R. 167, 170 (Chk. 2008) (unlike an amended pleading, a supplemental pleading, however, is designed to cover matters subsequently occurring but pertaining to the original cause); *Damarlane v. Pohnpei State Court*, 6 FSM R. 561, 563 (Pon. 1994) (a court has discretion to determine whether it is just to allow a party to serve additional, supplemental pleadings upon an opposing party based on happenings since the date of the pleading sought to be supplemented).

Even more problematic is the September 10, 2018 reply pleading filed by the Defendant Yosilyn Carl. Under the Court’ Rules of Civil Procedure, reply pleading are not authorized, nor, however, are they prohibited. Instead, the Court considers them permissible. *Island Dev. Co. v. Yap*, 9 FSM R. 279, 282 (Yap 1999) (while the FSM Rules of Civil Procedure do not provide for replies to responses to motions, they do not prohibit them either, and it has been the general practice of FSM Supreme Court’s trial division to consider them in the absence of an order directing differently; a court may, however, only consider replies to the extent that they address the response, and not to the extent that the reply may raise issues extraneous to the original motion or the response). See *Adams v. Island Homes Constr., Inc.*, 10 FSM R. 159, 161 (Pon. 2001) (pleadings are defined as the complaint, answer, reply to a counterclaim, answer to a cross-claim, third-party complaint, and third-party answer; no other pleadings are allowed, except that the court may order a reply to an answer or a third-party complaint. No other paper will be considered a pleading and a motion in any form cannot stand as a pleading); *Bank of the FSM v. Truk Trading Co.*, 16 FSM R. 281, 284 (Chk. 2009) (a defendants’ “reply” to the plaintiff’s reply to the defendants’ counterclaims is not an authorized pleading and will be stricken since a “pleading” unauthorized under the civil procedure rules and practice may be stricken).

In this instance, however, the certificate of service accompanying the Defendant’s reply pleading is utterly false as to when service of the pleading actually occurred. The certificate of service claims that the reply pleading was served on the Development Bank by mail on September 10, 2018. In fact, and as the envelope bearing the reply pleading shows, it was not mailed until October 5, 2018. FSM Civ. R. 5 and R. 6. Under these circumstances, the reply pleading is, in the discretion of the Court, not allowed, and, as such, it is hereby stricken from the record. FSM Civ. R. 12(f).

## 2. Defendant's Motion for Reconsideration

That aside, with regard to the Defendant Yosilyn Carl's motion for reconsideration of the Court's contempt-of-court finding against the garnishee, Mr. Fujita, it must be noted that a motion to reconsider is not expressly identified within the FSM Rules of Civil Procedure. FSM Dev. Bank v. Setik, 20 FSM R. 315, 317 (Pon. 2016). Thus, to the extent that they are allowed, motions for reconsideration must be narrowly construed and strictly applied in order to discourage litigants from making repetitive arguments on the same issues that have been thoroughly considered by the court. Ehsa v. FSM Dev. Bank, 19 FSM R. 421, 423-24 (Pon. 2014). Indeed, a Rule 59(e) motion may not be used to relitigate old matters, and arguments that could have been raised before may not be raised for the first time in a motion for reconsideration. Ehsa, 19 FSM R. at 423. In addition, a mere disagreement with the court's application of a legal standard does not support a motion to reconsider. *Id.* at 424. *See also Setik*, 20 FSM R. at 319 (a motion for reconsideration may not be used to marshal arguments for the first time that could have been raised before).

In this instance, there is nothing in the Defendant's motion for reconsideration which the Court either overlooked or misconstrued at the January 18, 2018 hearing at issue here. Indeed, the Defendant's attempts in her pending motion to show that the garnishee was no longer in privity with the borrowers as their lessee only confirms that the garnishee was, in fact, making monthly payments for the use and occupancy of land that is by all accounts an asset of the estate of Yoshiro Carl and/or the estate of Linda Carl. That these borrowers have yet to satisfy the outstanding judgment entered against them is undisputed.

Accordingly, the motion for reconsideration at issue here is denied.

## 3. Plaintiff's Application for an award of Costs and Attorney's Fees

Lastly, and as noted above, following the Court's contempt-of-court finding against Mr. Fujita for his violation of the garnishment order issued in connection with the Order in Aid of Judgment in this case, the Development Bank submitted its application for an award of costs and legal fees incurred in connection with the show-cause hearing held on January 18, 2018. It is well established by this Court that there "is flexibility to modify the normal rule that each party pays its own attorney's fees when justice requires, [including] for willful violation of a court order . . . ." Semens v. Continental Air Lines, Inc. (II), 2 FSM R. 200, 208 (Pon. 1986). In this case, the Court has reviewed the Development Bank's submission and finds that the request for an award of costs of \$133.79 and attorney's fees of \$2,745.00, which reflects 19.8 hours of time at the rate of \$125 per hour, totaling \$2,608.79, is both permissible and reasonable. Bank of the FSM v. Bartolome, 4 FSM R. 182, 184 (Pon. 1990) (any award of attorney's fees must be based upon a showing, and a judicial finding, that the amount of the fees is reasonable).

Accordingly, the Development Bank is hereby awarded costs of \$2,608.79 in connection with the show-cause hearing at issue here. This award is assessed, jointly and severally, against Kazuhiro Fujita, Yosilyn Carl, in her capacity as the administrator of the estate of Linda Carl, and the estate of Linda Carl. These costs are to be paid to the Development Bank within 60 days from the date that this Order is received.

## D. Conflict-of-Interest Issues

As noted above, it appears that Yoslyn Sighrah, Esq., is concurrently representing several individuals in this case, including: 1) Yosilyn Carl, in her capacity as the administrator of the estate of Linda Carl; 2) the estate of Linda Carl; and 3) Kazuhiro Fujita. In addition, and as noted above, Ms. Sighrah may also be representing yet additional individuals in connection with this case, even those other clients are not named parties to the matter at hand. Even more complicated, despite the Court issuing a garnishment order directing Mr. Fujita to remit his monthly rental payments owed to the estate of Linda Carl to the Development Bank, he intentionally refused to do so. Instead, the rental payments were distributed to other individuals

including certain heirs to the estate of Linda Carl.

It has been recognized by this Court that a lawyer cannot represent multiple clients with conflicting or potentially conflicting interests in the same matter unless the lawyer reasonably believes the representation will not be adversely affected and the client consents after consultation. Marsolo v. Esa, 17 FSM R. 480, 486 (Chk. 2011). When representation of multiple clients in a single matter is undertaken, the consultation must include explanation of the implications of the common representation and the advantages and risks involved. *Id.* at 486. The test for a lawyer to determine whether a conflict of interest exists in representing more than one client is found in FSM MRPC Rule 1.7. Luen Thai Fishing Venture, Ltd. v. Pohnpei, 20 FSM R. 169, 172 (Pon. 2015).

Accordingly, the Court hereby orders the parties to submit their respective position on whether Ms. Sigrah's apparent concurrent representation of the various individuals and entities involved in this case, as described above, presents a conflict of interest, as defined by Rule 1.7 of the American Bar Association's Model Rules of Professional Conduct, as adopted by this Court. See FSM MRPC Rule 1.7. The court has a duty, in accordance with the Model Rules of Professional Conduct, to regulate the conduct of the attorneys who practice before it, and this duty cannot be defeated by a private party's laches, although in an extreme case it may be given some weight. FSM Dev. Bank v. Ehsa, 18 FSM R. 388, 392 (Pon. 2012). Each party shall submit their respective position within 10 days from the date that this Order is received. Response pleadings to another party's submission are not permitted.

Once these submissions are received, the Court will issue an order addressing the scope of Ms. Sigrah's representation in this matter, including the possibility of the submission of additional briefs by the parties.

#### E. *Further Proceedings*

A Scheduling Order will be issued that provides for the adjudication of the various issues that remain pending before this Court, including:

##### 1. *Enforcement of Contempt-of-Court Finding for Garnishee Kazuhiro Fujita*

As noted above, the Court previously ordered that Kazuhiro Fujita shall pay \$4,500 to the Development Bank in order to purge the contempt-of-court finding against him. When a hearing is scheduled in this case, the Court will hear testimony from a representative of the Development Bank as to the payment of the \$4,500.00 by Mr. Fujita. In the event that this payment is not made, in full, Mr. Fujita may be taken into custody forthwith and imprisoned at the Pohnpei State jail until he has purged the contempt-of-court finding against him is purged, *i.e.*, until he has paid the Development Bank at least \$4,500. Whether Ms. Sigrah will be permitted to represent Mr. Fujita at such a proceeding will depend on the Court's ruling with regard to the apparent conflict of interest that has arisen from Ms. Sigrah's concurrent representation of the various named-parties to this case as well as other individuals who are not parties to this matter.

##### 2. *Award of Attorney's Fees and Costs to the FSM Development Bank*

In addition, the Court will hear further testimony from a representative of the Development Bank as to the payment of the \$2,608.79 in costs and attorney's fees awarded to the Development Bank from Yosilyn Carl. In the event that this individual testifies that no payments have been received, then the Court will schedule a show cause hearing, at which time Mr. Fujita and Ms. Carl must appear and show cause why each of them should not be adjudged in contempt of court for failing to pay the \$2,608.79 in costs and fees at issue here within 60 days as so ordered by the Court to do. Whether Ms. Sigrah will be permitted to



represent Mr. Fujita and/or Ms. Carl at such a proceeding will depend on the Court's ruling with regard to the apparent conflict of interest that has arisen from Ms. Sigrah's concurrent representation of the various named-parties to this case as well as other individuals who are not parties to this matter.

3. *Further contempt of court proceedings against Kazuhiro Fujita*

Separate and apart from the July 9, 2018 contempt-of-court finding against Mr. Fujita, and since the Court's garnishment order remains in effect, if the Development Bank wishes to proceed with further contempt-of-court sanction against Mr. Fujita in connection with the garnishment order at issue here, the Bank must file the appropriate motion with the Court. A show-cause proceeding will then be scheduled once the presiding Chief Justice returns to the Federated States of Micronesia. Again, whether Ms. Sigrah will be permitted to represent Mr. Fujita at such a proceeding will depend on the Court's ruling with regard to the apparent conflict of interest that has arisen from Ms. Sigrah's concurrent representation of the various named-parties to this case as well as other individuals who are not parties to this matter.

4. *Contempt-of-Court proceedings against Yoslyn Sigrah, Esq.*

Lastly, the Court will address whether Yoslyn Sigrah, Esq., should also not be adjudged in contempt of court for disobeying the Court's March 13, 2017 garnishment order at issue here. A hearing for the adjudication of this issue shall be scheduled once the presiding Chief Justice returns to the Federated States of Micronesia. Ms. Sigrah may, if she chooses, be represented by legal counsel at this proceeding, or she may proceed in *pro se* form.

F. *Conclusion*

In conclusion, and as requested by the Development Bank, the Court will schedule further proceedings in connection with the contempt-of-court finding against Mr. Fujita. In order to do so, and for the reasons stated above, the Court hereby disposes of all the pending motions now before it, including denying the motion for reconsideration filed by Yosilyn Carl as well as awarding the Development Bank the costs and attorney's fees it incurred in connection with the Court's contempt-of-court finding against Mr. Fujita. In addition, the parties are required to submit their respective briefs the Court on the apparent conflict-of-interest issues that have arisen from Ms. Sigrah's concurrent representation of the various parties and other individuals who have not been named as parties to this litigation, within 10 days from the date that this Order is received. Lastly, and at a later date, further proceedings will be scheduled in this case to provide for the adjudication of the remaining issues pending before the Court, as discussed more fully above.

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