

in rare instances when this Court declines to adjudicate a case in favor of allowing a state court to do so, in the furtherance of the state court's development over an area of law that is clearly within the state's interest. Ponape Transfer & Storage, Inc. v. Federated Shipping Co., 4 FSM R. 37, 39 (Pon. 1989) (a cautious, reasoned use of the doctrine of abstention is not a violation of the litigants' constitutional rights under the FSM Constitution). In those cases, however, in order to invoke the doctrine of abstention, this Court must first conclude that it has subject-matter jurisdiction over the case. Here, this Court lacks subject-matter jurisdiction over this case. Thus, the Court lacks jurisdiction to even invoke the doctrine of abstention. Ponape Transfer & Storage, Inc., 4 FSM R. at 42-43 (while the FSM Constitution provides initial access to the FSM Supreme Court for any party in article XI, section 6(b) litigation, the court may, having familiarized itself with the issues, invoke the doctrine of abstention and permit the case to proceed in a state court, since the power to grant abstention is inherent in the jurisdiction of the FSM Supreme Court, and nothing in the FSM Constitution precludes the court from abstaining in cases which fall within its jurisdiction under article XI, section 6(b)).

In short, based upon the allegations set forth in the Complaint, this Court lacks subject-matter jurisdiction to adjudicate this case. As such, this case is hereby dismissed. This dismissal is without prejudice. The Plaintiff is free to refile a Complaint arising from the termination of her employment contract, provided that the Complaint includes allegations that will invoke the provisions of the FSM's national civil rights statute, such as discrimination based upon race, gender, religion, etc.

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FSM SUPREME COURT APPELLATE DIVISION

FEDERATED STATES OF MICRONESIA	)	APPEAL CASE NO. P10-2019
DEVELOPMENT BANK,	)	(Civil Action Nos. 2007-008
	)	& 2010-006)
Petitioner,	)	
	)	
vs.	)	
	)	
HON. LOURDES MATERNE and FSM SUPREME	)	
COURT TRIAL DIVISION, Pohnpei Venue,	)	
	)	
Respondents,	)	
	)	
MARIANNE B. SETIK, THE ESTATE OF MANNY	)	
SETIK, ATANASIO SETIK, VICKY SETIK IRONS,	)	
IRENE SETIK WALTER, MARLEEN SETIK,	)	
JUNIOR SETIK, ELEANOR SETIK SOS, JOANITA	)	
SETIK PANGELINAN, MERIAM SETIK,	)	
CHRISTOPHER JAMES SETIK, JERMINA SETIK,	)	
and AREEN SETIK,	)	
	)	
Respondents/Real Parties	)	
in Interest.	)	
_____	)	

ORDER PUBLICLY ADMONISHING COUNSEL

Decided: December 2, 2020

BEFORE:

Hon. Larry Wentworth, Associate Justice, FSM Supreme Court  
Hon. Cyprian J. Manmaw, Specially Assigned Justice, FSM Supreme Court\*  
Hon. Mayceleen J.D. Anson, Specially Assigned Justice, FSM Supreme Court\*\*

\*Chief Justice, Yap State Court, Colonia, Yap

\*\*Associate Justice, Pohnpei Supreme Court, Kolonia, Pohnpei

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#### HEADNOTES

##### Attorney Discipline and Sanctions

Counsel will be publicly admonished for submitting in support of a rehearing petition what purported to be an adopted 2015 Congress resolution when it was only a proposed version of a resolution and the actual adopted resolution was quite different, and for never serving the rehearing petition on opposing counsel, although a certificate of service attesting to service was attached to the filed rehearing petition. FSM Dev. Bank v. Materne, 23 FSM R. 94, 95 (App. 2020).

##### Attorney Discipline and Sanctions

The failure to serve a rehearing petition on opposing counsel falls well below the conduct that is expected from counsel that appear before the court because a false statement (such as the certificate of service attesting to service) to a tribunal does not display the candor that is required of counsel and is a lapse that cannot be tolerated. FSM Dev. Bank v. Materne, 23 FSM R. 94, 95-96 (App. 2020).

\* \* \* \*

#### COURT'S OPINION

PER CURIAM:

We feel that two occurrences during the course of this appellate division case are matters of grave concern:

First, the respondents' counsel, Yoslyn G. Sigrah, submitted in support of the respondents' petition for rehearing, what purported to be an adopted 2015 Congress resolution that asked the FSM Development Bank for a temporary moratorium on mortgage foreclosures when, in fact, this was only a proposed version of a resolution and the actual adopted resolution, FSM Cong. Res. 19-129, 19th Cong., 2d Reg. Sess. (2015), asked "the President to look into the FSM Development Bank to address the concerns of our citizens, and report back to Congress before the next Special Session in November 2015."

Second, respondent's counsel never served the respondents' petition for rehearing on the petitioners' counsel, although a certificate of service attesting to service was attached to the filed rehearing petition.

The respondents' counsel may have some excuse for misleading the court with an unadopted Congress resolution, but, since respondents' counsel is resident on Pohnpei, it should have been a simple matter for her to obtain an accurate copy from the Congress office.

The failure to serve the rehearing petition on opposing counsel, however, falls well below the conduct that we expect from counsel that appear before us. A false statement (such as the certificate of service) to

a tribunal does not display the candor that is required of counsel. See FSM MRPC R. 3.3. It is a lapse that cannot be tolerated.

NOW THEREFORE IT IS ORDERED that respondent's counsel, Yoslyn G. Sighra, is hereby publicly admonished.

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CHUUK STATE SUPREME COURT APPELLATE DIVISION

In the Matter of the November 19, 1991 Court	)	CIVIL APPEAL NO. 02-2020
Judgment in Chuuk State Civil Action CSSC-CA	)	
No. 123-90	)	
_____	)	
CHUUK LAND COMMISSION, on behalf of Heirs of	)	
Akenes, Heirs of Ekros, Heirs of Benjamin and Fred,	)	
and Heirs of Toran (adjacent landowners),	)	
	)	
Petitioner,	)	
	)	
vs.	)	
	)	
CHUUK STATE SUPREME COURT TRIAL	)	
DIVISION,	)	
	)	
Respondent,	)	
	)	
TOIO ESA, LUKE, and MEISY and Immediate	)	
Family,	)	
	)	
Respondents-Real Parties in Interest.	)	
_____	)	

OPINION AND ORDER DENYING PETITION FOR A WRIT

Argued: November 17, 2020  
Decided: December 2, 2020

BEFORE:

Hon. Jayson Robert, Associate Justice, Presiding  
Hon. Larry Wentworth, Temporary Justice\*  
Hon. Daniel Rescue, Jr., Temporary Justice\*\*

\*Associate Justice, FSM Supreme Court

\*\*Attorney at Law, Weno, Chuuk