

DOMICILE AND RESIDENCE

Because a person may have more than one place of residence and a person's legal residence is his place of domicile or permanent abode, as distinguished from temporary residence, an FSM citizen temporarily working abroad is the legal resident of some state in the Federated States of Micronesia, and thus may be served process in any manner permitted by the FSM rules, such as by certified mail. Alik v. Moses, 8 FSM R. 148, 150 (Pon. 1997).

The Supreme Court may exercise personal jurisdiction in civil cases only over persons residing or found in the Federated States of Micronesia or who have been duly summoned and voluntarily appear, except as provided in the long arm statute. The terms "resides in," "is a resident of," and "residence is in" are roughly synonymous. Alik v. Moses, 8 FSM R. 148, 149-50 (Pon. 1997).

Ordinarily a person's usual place of abode is the place where the party is actually living, except for temporary absences, at the time service is made, but it is possible for a person to have two or more dwelling houses or usual places of abode for the purpose of Rule 4(d)(1) service. UNK Wholesale, Inc. v. Robinson, 11 FSM R. 118, 121 (Chk. 2002).

Because a divorce case involves the parties' status or condition and their relationship to others, the law to be applied is that of the domicile. Thus in a divorce between a Pohnpeian, who now resides in Hawaii, and an American citizen who resides in Pohnpei and the parties lived in Pohnpei during their marriage, the court will apply Pohnpei substantive law. Ramp v. Ramp, 11 FSM R. 630, 641 (Pon. 2003).

When comparing the terms from different parts of the code, the court must presume that by using different terms, in this case "legal residents" and "residents," the drafters could have only intended that the meaning would also be different. Berman v. Lambert, 17 FSM R. 442, 447 (App. 2011).

The word "resident" has many legal meanings that are largely determined by the statutory context in which it is used. The simplest definition of resident is a person who has residence in a location. Berman v. Lambert, 17 FSM R. 442, 448 (App. 2011).

Legal residence is defined as the place of domicile or permanent abode, as distinguished from temporary residence, it is the location defined by law as the residence of the person. Berman v. Lambert, 17 FSM R. 442, 448 (App. 2011).

The statute's plain meaning of term "legal residents of Pohnpei" is individuals who are domiciled in Pohnpei. This interpretation allows a Pohnpeian citizen living abroad, who maintained his or her domicile in Pohnpei, to receive the same hiring preference as a Pohnpeian citizen living in Pohnpei and it would give all FSM citizens and non-citizens who have moved to Pohnpei and made Pohnpei their domicile, equal opportunity for job selection and promotion. This interpretation is also internally consistent with the statute's other parts which give a second preference for employment to FSM citizens who are not legal residents of Pohnpei when applying for a position or promotion and who would receive a preference over non-citizens who are temporarily living in Pohnpei and over other non-residents. Berman v. Lambert, 17 FSM R. 442, 448 (App. 2011).

When, by its own terms, the 51 F.S.M.C. 112(7) definition of a "nonresident worker" applies

only to FSM Code Title 51, chapter 1, and not even to the rest of the FSM Code, it certainly does not apply to the Chuuk Health Care Act, which contains its own definition for the term "resident." Chuuk Health Care Plan v. Pacific Int'l, Inc., 17 FSM R. 617, 619-20 (Chk. 2011).

Under the Chuuk Health Care Act, a "resident" is any Chuuk citizen for whom Chuuk is his principal residence, or any noncitizen who has established an ongoing physical presence in Chuuk and whose presence is sanctioned by law and is not merely transitory in nature. The non-citizen workers' ongoing physical presence in Chuuk is clearly sanctioned by law when the non-citizen employees apply annually for labor certification and for entry permits in order to maintain their employment in Chuuk. Chuuk Health Care Plan v. Pacific Int'l, Inc., 17 FSM R. 617, 620 (Chk. 2011).

The law sometimes equates "legal residence" with domicil, while using "actual residence" to refer to one's present physical location. Even though the term "legal residence" is sometimes used as the equivalent of domicil, a person may have more than one legal residence. Chuuk Health Care Plan v. Pacific Int'l, Inc., 17 FSM R. 617, 620 (Chk. 2011).

Even though a contractor's non-citizen employees cannot be domiciled in Chuuk, they might have a legal residence here, but, even if they are not considered to have a legal residence here, they do have an actual residence in Chuuk that is legally sanctioned, and they are thus, by statute, enrolled in and eligible for Chuuk Health Care Plan benefits and their employer is therefore liable, as a matter of law, to the Plan for the employees' and the employer's contributions of the health insurance premiums for its non-citizen as well as citizen employees on Chuuk. Chuuk Health Care Plan v. Pacific Int'l, Inc., 17 FSM R. 617, 620 (Chk. 2011).

Since a suit against an official in his or her official capacity is a suit against that official's office and since a national government office with nationwide scope and authority must be "found" or be "present" in some form in each state in the nation regardless of whether it has an actual year-round physical presence there, for the purpose of the venue statute, none of the defendant national government officials "reside" on Pohnpei. Marsolo v. Esa, 18 FSM R. 59, 66 (Chk. 2011).

Legal residence is usually defined as the place of domicile or permanent abode, and while the term "legal residence" is often the equivalent of domicile and "actual residence" is used to refer to one's current physical location, a person may have more than one legal residence, but a person can have only one domicile. In re Mix, 18 FSM R. 600, 602 n.1 (Pon. 2013).