

STATUTES OF LIMITATION

It is inappropriate to deny a defendant the right to assert a statute of limitations defense by way of punishment for tardiness in filing its answer. Lonno v. Trust Territory (III), 1 FSM R. 279, 280 (Kos. 1983).

When there are significant issues of fact which may affect the defendant's statute of limitations defense in a civil action, a motion to dismiss on statute of limitations grounds must be denied. Lonno v. Trust Territory (III), 1 FSM R. 279, 281-82 (Kos. 1983).

There is no provision in the Public Service Act nor in the Public Service System Regulation that establishes a time limit for seeking judicial review of agency action. For this reason, the court adopts the six-year statute of limitations established in 6 TTC 305 and holds that the petition for judicial review was filed in a timely manner. Amor v. Pohnpei, 3 FSM R. 28, 33 (Pon. S. Ct. Tr. 1987).

The general rule is that statutes of limitations do not run against the sovereign. FSM Dev. Bank v. Yap Shipping Coop., 3 FSM R. 84, 86 (Yap 1987).

Laches is a tool courts use to limit a party's rights when they have not been timely asserted, such that it is unfair for the court to now redress them. The period of time may be less than the statutory limitations period and each case must be judged on a case by case basis for fundamental fairness. Palik v. Kosrae, 5 FSM R. 147, 155 (Kos. S. Ct. Tr. 1991).

The twenty year statute of limitation to contest land title did not take effect until 1951 so that it could not be asserted as a defense until 1971. Chipuelong v. Chuuk, 6 FSM R. 188, 194 (Chk. S. Ct. Tr. 1993).

In order for an action over an interest in land to be barred by the statute of limitations, the cause of action must arise more than twenty years before the action is brought. If the claim could have been made over twenty years before it was actually made, then the action can no longer be maintained, no matter how meritorious. Chipuelong v. Chuuk, 6 FSM R. 188, 194 (Chk. S. Ct. Tr. 1993).

When 38 years have elapsed since the determination of ownership of a tract of land in the Wito Clan, when there have been public notices posted concerning the determination and concerning its later lease to the Trust Territory; two separate High Court decisions and three determinations of ownership concerning the land, and when construction activity on the land began 36 years ago; this constitutes both constructive and actual notice of the Wito Clan's claim to the land to another clan whose numerous members lived on the same small island. Chipuelong v. Chuuk, 6 FSM R. 188, 195 (Chk. S. Ct. Tr. 1993).

Under section 24(1) of the Pohnpei Government Liability Act of 1991, the statute of limitations on a cause of action brought pursuant to the Act is not suspended during the period of administrative review required by the statute. Abraham v. Lusangulira, 6 FSM R. 423, 425 (Pon. 1994).

Where government title to the tidelands reverted to the traditional owners in 1989, and because the right to bring an action for trespass or ejection must be available to the owner before the time period for adverse possession has run, whether the doctrine of adverse

possession exists in Chuukese land law need not be decided because the twenty-year statute of limitations did not start to run until 1989. Cheni v. Ngusun, 6 FSM R. 544, 548 (Chk. S. Ct. App. 1994).

Laches and the statute of limitations are two different defenses. The statute of limitations defense has only one element – the passage of a specific statutory amount of time while the equitable defense of laches has two elements – the passage of a nonspecific amount of time during which the plaintiff engages in inexcusable delay or lack of diligence in bringing suit, and resulting prejudice to the defendant. Laches is always applied separate from and irrespective of the statute of limitations. Nahnken of Nett v. Pohnpei, 7 FSM R. 485, 489 (App. 1996).

Any attempt to breathe new life into tort claims time barred by the relevant and analogous statutes should be approached with caution because they are the type of personal claims for money damages that become increasingly difficult of proof and difficult to defend with the passage of time. Ordinarily such claims are resolved by political and diplomatic efforts. Alep v. United States, 7 FSM R. 494, 498 (App. 1996).

The statute of limitations has run on claims of mismanagement of the Micronesian Claims Act unless there was continuing unlawful conduct that would create a basis for equitable tolling of the statute of limitations. Alep v. United States, 7 FSM R. 494, 499 (App. 1996).

An action for damages for loss of land is subject to a six-year statute of limitations unlike the twenty-year statute of limitations for recovery of an interest in land. Nahnken of Nett v. United States, 7 FSM R. 581, 590 (App. 1996).

As a general rule, the statute of limitations may be invoked by a successor in right. Thus a later transfer of land cannot resurrect a time-barred claim. Nahnken of Nett v. United States, 7 FSM R. 581, 590 (App. 1996).

In the Chuuk State Supreme Court, a hearing for judgment after a default is entered that is held to allow the plaintiff to present to the court further evidence to establish the plaintiff's right to a claim or relief, includes the court's determination of whether the action was brought within the limitation period provided by law. Sipia v. Chuuk, 8 FSM R. 557, 558, 560 (Chk. S. Ct. Tr. 1998).

For trespass the period of limitation begins to run when the project causing the damage is completed, if substantial damage has already occurred, or when the first substantial injury is sustained. Sipia v. Chuuk, 8 FSM R. 557, 559 (Chk. S. Ct. Tr. 1998).

The cause of action arises, and the general statute of limitations begins to run on tort actions for injury to property at the time the injury is sustained. Sipia v. Chuuk, 8 FSM R. 557, 559 (Chk. S. Ct. Tr. 1998).

When the plaintiff claims the state trespassed on her property by installing poles, a road and pipes sometime before the end of 1987 but did not file suit until 1994, recovery will be barred by the six year statute of limitations. Sipia v. Chuuk, 8 FSM R. 557, 559-60 (Chk. S. Ct. Tr. 1998).

A party's claim to land after a municipality has continued its open, notorious, exclusive and hostile occupation of the land for a period of 27 years before he files suit is barred by the

twenty-year statute of limitations, and the municipality is the true and lawful owner of title to the land in dispute on the theory of adverse possession. Hartman v. Chuuk, 9 FSM R. 28, 31 (Chk. S. Ct. App. 1999).

A suit filed on March 18, 1997 for a cause of action with a six-year statute of limitation that accrued on March 18, 1991 was filed on the very last day for doing so because in computing any time period the day of the act, event, or default from which the designated time period begins to run is not included. Mid-Pacific Liquor Distrib. Corp. v. Edmond, 9 FSM R. 75, 78 (Kos. 1999).

All actions in Kosrae State Court must be commenced within the time period stated in Kosrae State Code, title 6, chapter 25. Jonah v. Kosrae, 9 FSM R. 335, 343 (Kos. S. Ct. Tr. 2000).

Because a trespass claim has either a twenty-year or a six-year statute of limitations, the statute of limitations on a trespass starting November, 1999 will not run for many years. College of Micronesia-FSM v. Rosario, 10 FSM R. 175, 188 (Pon. 2001).

After a Trust Territory employee's cause of action accrued in 1980 when he completed the informal grievance procedure with his supervisor, he had two options: follow the formal grievance procedure for review by the Personnel Board; or file suit in court for judicial review of his grievance. Since his right to sue was complete then, a suit, filed in 2000, will be barred by the six-year statute of limitations and dismissed. Skilling v. Kosrae, 10 FSM R. 448, 452-53 (Kos. S. Ct. Tr. 2001).

When there is a two year statute of limitations for actions for injury to or for the death of one caused by the wrongful act or neglect of another, when the plaintiff, who was an adult at the time she was injured, filed her complaint over seven years after the injury, and when the testimony yields no information why the statute of limitations had not run two years after the date of the accident, a motion to dismiss based on the statute of limitations will be granted. Adolip v. Mobil Oil Micronesia, Inc., 10 FSM R. 587, 589 (Pon. 2002).

In Kosrae, actions on a judgment and actions for the recovery of land or an interest in land have a twenty year statute of limitations. Sigrah v. Kosrae State Land Comm'n, 11 FSM R. 169, 174 (Kos. S. Ct. Tr. 2002).

An action on a judgment filed more than twenty years after the judgment was announced, but less than twenty years after the written judgment was served on the parties is timely filed and not barred by the statute of limitations. Sigrah v. Kosrae State Land Comm'n, 11 FSM R. 169, 174 (Kos. S. Ct. Tr. 2002).

The accrual of a cause of action for recovery of land begins when a suit may successfully be maintained upon. Where a cause of action for recovery of land accrued when the Determinations of Ownership were served and when the complaint was filed within twenty years of service, the cause of action for the recovery of land falls within the twenty year limitations period and is not barred by the statute of limitations. Sigrah v. Kosrae State Land Comm'n, 11 FSM R. 169, 174 (Kos. S. Ct. Tr. 2002).

The statute of limitations is an affirmative defense which must be raised in the defendant's answer, and when it has not been, the defendant has waived its statute of limitations defense.

Tolenoa v. Kosrae, 11 FSM R. 179, 185 (Kos. S. Ct. Tr. 2002).

When the applicable statute of limitations is six years and the construction agreement between the Permans and Felix is dated January 10, 1997 and other operative events occurred in September and October 1997, a July 23, 2002 motion to amend the complaint to add Felix and claims against him is not time barred. Adams v. Island Homes Constr., Inc., 11 FSM R. 218, 233 (Pon. 2002).

The review of legal errors is *de novo*. The questions of when a statute of limitations begins to run, and whether a claim is barred by the statute of limitations, are questions of law and to be reviewed *de novo*. Kosrae v. Skilling, 11 FSM R. 311, 315 (App. 2003).

Laches and the statute of limitations are two different defenses. The statute of limitations defense has only one element, which is the passage of a specific statutorily set amount of time. The equitable defense of laches has two elements. One element is the passage of a nonspecific amount of time during which the plaintiff engages in inexcusable delay or lack of diligence in bringing suit, and the other element is the resulting prejudice to the defendant. Kosrae v. Skilling, 11 FSM R. 311, 318 (App. 2003).

Unlike statutes of limitation, which bar an action after a fixed period of time, laches depends upon considerations of fairness, justice, and equity, and is invoked when the applicable statute of limitations has not yet passed. Kosrae v. Skilling, 11 FSM R. 311, 318 (App. 2003).

A statute of limitations defense is not one of the enumerated defenses that may be brought by motion under Rule 12(b), but rather is one of the specific defenses named in Rule 8(c) where a party must set forth affirmatively in the answer, the statute of limitations and any other matter constituting an avoidance or affirmative defense. Segal v. National Fisheries Corp., 11 FSM R. 340, 342 (Kos. 2003).

When claims for food, lodging, and transportation costs could have been first sued upon as of March, 1996, the six year limitations period on those claims expired before the July 4, 2002 complaint was filed. Segal v. National Fisheries Corp., 11 FSM R. 340, 343 (Kos. 2003).

That alleged contracts may have extended from June 5, 1995, to July 5, 1996, does not permit the plaintiffs to pursue all of their alleged claims in a complaint filed on July 4, 2002. The relevant inquiry is when the alleged contract breaches occurred and the consequent causes of action accrued, not when the alleged contracts expired. When all of the claims except those for wages first payable on or after July 4, 1996, accrued more than six years from the filing of the complaint, the complaint will be dismissed, but without prejudice to the filing of an amended complaint for any wage claims that accrued on or after July 4, 1996. Under Civil Rule 15(c), the filing of any such amended complaint will relate back to July 4, 2002, the original complaint's filing date. Segal v. National Fisheries Corp., 11 FSM R. 340, 343 (Kos. 2003).

A statute of limitations is one of the expressly stated affirmative defenses to an action under Civil Rule 8(c). As such, it may be waived. On the other hand, a defect in subject matter jurisdiction may never be waived, and may be raised at any time, even after judgment. Andrew v. FSM Social Sec. Admin., 12 FSM R. 78, 80 (Kos. 2003).

To read the language that a petitioner shall by filing in court, within 60 days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part, to

mean that the 60 day time period is absolute, which is to say jurisdictional, would be to read the statute as limiting the trial division's jurisdiction to hear such appeals. Statutes which limit a court's jurisdiction are to be construed narrowly. Andrew v. FSM Social Sec. Admin., 12 FSM R. 78, 81 (Kos. 2003).

Given the absence in the statute of any express language limiting the court's jurisdiction, the 60-day period for filing a petition in the FSM Supreme Court trial division to appeal a final order of the Social Security Administration is a statute of limitations. As such, it is one of the specifically enumerated defenses under FSM Civil Rule 8(c) that may be raised in the answer. The time limit does not affect the court's subject matter jurisdiction. Andrew v. FSM Social Sec. Admin., 12 FSM R. 78, 81 (Kos. 2003).

A denial of a motion to dismiss for lack of jurisdiction is without prejudice to Social Security's right to raise the statute of limitations defense by motion pursuant to FSM Civil Rule 12(c). Andrew v. FSM Social Sec. Admin., 12 FSM R. 78, 81 (Kos. 2003).

A statute of limitations defense is an issue for trial when questions of fact exist. AHPW, Inc. v. FSM, 12 FSM R. 114, 123-24 (Pon. 2003).

When the Pohnpei Foreign Investment Board's letter states that the plaintiff is ordered to cease and desist from engaging in business and must surrender her Foreign Investment Permit, the clear implication of the Board's letter is that its revocation decision is effective immediately with no indication that those "orders" would take effect only at the expiration of a 20-day period. Thus, having failed to inform plaintiff of the 20-day waiting period, and having improperly indicated that its revocation decision was immediately effective, the Board cannot rely on the 20-day statutory period to appeal as a basis for dismissing this appeal. To the extent that it functions as a statute of limitation, it begins to run when a permit holder is notified of a Board decision and informed that the decision will become effective in 20 days if not appealed. Cuipan v. Pohnpei Foreign Inv. Bd., 12 FSM R. 184, 186 (Pon. 2003).

The continuing tort doctrine is well-settled law, and dictates that when there is an ongoing pattern of tortious activity where no single incident may be fairly identified as the cause of the harm suffered, then it is appropriate to regard the total effect of the conduct as actionable, and the statute of limitations does not begin to run until the conduct has ceased. In order to invoke the continuing tort doctrine, there must be continuing unlawful acts, and not merely continuing effects from a single original act. AHPW, Inc. v. FSM, 12 FSM R. 544, 553 (Pon. 2004).

The rationale behind the principle that the statute of limitations does not begin to run on a continuing wrong until the wrong is over and done with is that the principle strikes a balance between the plaintiff's interest in being spared having to bring successive suits, and the two distinct interests, that statutes of limitations serve. One is evidentiary – to reduce the error rate in legal proceedings by barring litigation over claims relating to the distant past. The other is repose – to give people the assurance that after a fixed time they can go about their business without fear of having their liberty or property taken through the legal process. When an unlawful course of conduct's final act occurs within the statutory period, these purposes are adequately served, in balance with the plaintiff's interest in not having to bring successive suits, by requiring the plaintiff to sue within the statutory period but letting him reach back and get damages for the entire duration of the alleged violation. Some of the evidence, at least, will be fresh. And the defendant's uncertainty as to whether he will be sued at all will be confined to

the statutory period. His uncertainty about the extent of his liability may be greater, but that is often true in litigation. AHPW, Inc. v. FSM, 12 FSM R. 544, 553 (Pon. 2004).

Kosrae State Code, Title 6, Chapter 25 establishes the statutes of limitations which are applicable to specific types of civil actions. All actions in Kosrae State Court must be commenced within the time period stated therein. Skilling v. Kosrae State Land Comm'n, 13 FSM R. 16, 19 (Kos. S. Ct. Tr. 2004).

The statute of limitations is an affirmative defense which must be raised in either the answer or in a motion to dismiss. Kinere v. Kosrae Land Comm'n, 13 FSM R. 78, 80 (Kos. S. Ct. Tr. 2004).

When the allegations made in the complaint are for causes of action that accrued more than seven years ago, and when claims against the Kosrae State Land Commission for violation of statute and violation of due process are subject to a limitations period of six years, the claims based upon Land Commission actions which took place in 1997 are therefore barred by the statute of limitations and defendants Kosrae State Land Commission and Kosrae state government will be dismissed from the action. Kinere v. Kosrae Land Comm'n, 13 FSM R. 78, 81 (Kos. S. Ct. Tr. 2004).

The six-year statute of limitations cannot bar an action when all the payments that the plaintiff seeks to recover appear to have taken place within the six years before the complaint was filed. Rudolph v. Louis Family, Inc., 13 FSM R. 118, 127 (Chk. 2005).

Because the allegations of the plaintiff's own complaint demonstrate that certain of its claims are subject to the defense of statute of limitations, the court may chose to dismiss those claims on the statute of limitations, although it is an affirmative defense. Mobil Oil Micronesia, Inc. v. Pohnpei Port Auth., 13 FSM R. 223, 228 (Pon. 2005).

The continuing tort principle dictates that when there is an ongoing pattern of tortious activity where no single incident may be fairly identified as the cause of the harm suffered, then it is appropriate to regard the total effect of the conduct as actionable, and the statute of limitations does not begin to run until the conduct has ceased. Pohnpei v. AHPW, Inc., 14 FSM R. 1, 17 (App. 2006).

Laches has two elements – the passage of a nonspecific amount of time during which the plaintiff engages in inexcusable delay or lack of diligence in bringing suit, and resulting prejudice to the defendant. Laches is always applied separate from and irrespective of the statute of limitations. Pohnpei v. AHPW, Inc., 14 FSM R. 1, 18 (App. 2006).

Actions for the recovery of land or any interest therein must be started within twenty years after the cause of action accrues. A claim to land clearly cannot be renewed when the statute of limitations on an action to recover an interest in land is twenty years and more than twenty years have passed since the certificate of title in another's favor was issued. Any subsequent attempt to litigate the land's ownership is barred by the statute of limitations. Dereas v. Eas, 14 FSM R. 446, 456 (Chk. S. Ct. Tr. 2006).

If an action accrued to a predecessor in interest, the twenty years statute of limitations is computed when the action first accrued to the predecessor. The statute of limitations does not

start to run all over again each time there is a new successor in interest. Dereas v. Eas, 14 FSM R. 446, 457 (Chk. S. Ct. Tr. 2006).

The statute of limitations is an affirmative defense which must be raised in a responsive pleading, such as an answer. It is an expressly stated affirmative defense to an action under Civil Rule 8(c), and as such, it is waived if it is not pled, or if it is not raised in a Rule 12(b)(6) motion for failure to state a claim. FSM Social Sec. Admin. v. Fefan Municipality, 14 FSM R. 544, 546 (Chk. 2007).

When the defendant has waived any statute of limitations defense, the limitations statute will not, as a matter of law, bar a summary judgment for the plaintiff. FSM Social Sec. Admin. v. Fefan Municipality, 14 FSM R. 544, 547(Chk. 2007).

The statute of limitations foreclosed the intervenor's claim, no matter how meritorious it might have been, in 2001 because the statute of limitations started to run in 1981 when the plaintiff was issued his certificate of title and that certificate of title constituted notice to the world of the plaintiff's claim to ownership of Lot No. 029-A-23, especially since the intervenor and the defendant both knew in 1991 that the plaintiff claimed to own the lot, or as the intervenor put it, that the certificate of title in the plaintiff's favor was not correct. Dereas v. Eas, 15 FSM R. 135, 139 (Chk. S. Ct. Tr. 2007).

When the twenty-year statute of limitations for the recovery of land or an interest therein did not expire until 2001 and since during the ten years from 1991, the latest date by which the intervenor and the defendant knew of the plaintiff's certificate of title, neither ever sued the plaintiff, that statute has now become a bar to any claim to Lot No. 029-A-23 by either the defendant or the intervenor. Dereas v. Eas, 15 FSM R. 135, 139 (Chk. S. Ct. Tr. 2007).

Once a claim is filed in court, the time set under a statute of limitations stops running. This means that a claim for adverse possession does not include the time after an action has been filed in a court. Therefore, the 20-year period for the claimants to occupy land openly, notoriously, exclusively, continuously, and under a claim of right must run prior to the time claims were filed. Heirs of Obet v. Heirs of Wakap, 15 FSM R. 141, 145 (Kos. S. Ct. Tr. 2007).

The statute of limitations is generally an affirmative defense that may be pled in the answer. A statute of limitations defense is not one of the enumerated defenses under Rule 12(b), but rather is one of the specific defenses named in Rule 8(c), where a party must set forth affirmatively in the answer, the statute of limitations and any other matter constituting an avoidance or affirmative defense. The statute of limitations defense may, however, be raised by a Rule 12(b)(6) motion, or, if affidavits are filed with the motion, by a Rule 56 summary judgment motion, as well as by answer, but if there is a question of fact about the defense's existence, the issue then cannot be determined on affidavits, and must be raised in the answer. John v. Chuuk Public Utility Corp., 15 FSM R. 169, 171-72 (Chk. 2007).

If a statutory remedy provides as a condition precedent to enforce the remedy that it must be started within a prescribed time, it is jurisdictional and the statute of limitations may be raised in a Rule 12(b)(6) motion to dismiss. John v. Chuuk Public Utility Corp., 15 FSM R. 169, 172 (Chk. 2007).

The affirmative defense of statute of limitations is to be raised affirmatively in the responsive pleading; it is not a defense that may be brought by a Rule 12(b) motion. George v. George, 15

FSM R. 270, 273 (Kos. S. Ct. Tr. 2007).

The statute of limitations for filing an action is different and distinct from the time limits for filing an appeal from a Land Court or Land Commission decision. An appeal from a Land Court or Land Commission decision is a statutorily-created right. Allen v. Allen, 15 FSM R. 613, 620 (Kos. S. Ct. Tr. 2008).

A statute of limitations is an independent bar to an action, separate from any opportunity to appeal that might be granted by a statute. Allen v. Allen, 15 FSM R. 613, 620 (Kos. S. Ct. Tr. 2008).

When the statute of limitations has expired on all loan instalment payments that became due before July 20, 2001 and when only two instalment payments were due after that date, the lender is, as a matter of law, entitled to judgment for only those two payments. FSM Dev. Bank v. Chuuk Fresh Tuna, Inc., 16 FSM R. 335, 338 (Chk. 2009).

A statute of limitation establishes a time limit for suing in a civil case, based on the date when the claim accrued. The purpose of such a statute is to require diligent prosecution of known claims, thereby providing finality and predictability in legal affairs and ensuring that claims will be resolved while evidence is reasonably available and fresh. Allen v. Allen, 17 FSM R. 35, 39 (App. 2010).

A statute of limitation will bar the maintenance of a cause of action, no matter how meritorious the claim, when it is brought too long after the cause of action arose. Allen v. Allen, 17 FSM R. 35, 39 (App. 2010).

When none of a plaintiff's causes of action are covered by the two-year statutes of limitation and when a complaint against the Land Commission cannot be a claim for the recovery of land from the Land Commission because the Land Commission does not own an interest in the claimed land, any negligence or due process claim against the Land Commission is subject to a six-year limitations period and will be time-barred and dismissed when the Land Commission actions or omissions are all over six years old. Allen v. Allen, 17 FSM R. 35, 39-40 (App. 2010).

When the plaintiff's causes of action arose or accrued in 1986 since, assuming he proved his case, he could have sued successfully for the recovery of the land then, and since no fraud is alleged or apparent, the plaintiff had twenty years within which to seek recovery of the land. Since that time period expired in 2006, the plaintiff's February 2007 complaint is thus time-barred. Allen v. Allen, 17 FSM R. 35, 40-41 (App. 2010).

When the six-year statute of limitations started in December 2002, and expired in December 2008, a case filed on March 23, 2009, was filed too late. Dungawin v. Simina, 17 FSM R. 51, 54 (Chk. 2010).

If it were clear that the allegations in the plaintiff's own complaint demonstrate that his claims are subject to the defense of statute of limitations, the court may dismiss those claims as time-barred even though the statute of limitations is an affirmative defense. But when there are significant factual issues that may affect the defendant's statute of limitations defense, a motion to dismiss on statute of limitations grounds must be denied. Aunu v. Chuuk, 18 FSM R. 48, 50-51 (Chk. 2011).

When the original loan documents were executed over fourteen years ago, the statute of limitations has run on a cause of action based on deception in their execution. Sorech v. FSM Dev. Bank, 18 FSM R. 151, 157-58 (Pon. 2012).

Leave to amend a complaint must be freely given if justice so requires, but the court must deny leave to amend when the amendment would be futile. One reason an amendment would be futile is if the claims are barred by the relevant statute of limitations. Iwo v. Chuuk, 18 FSM R. 252, 254 (Chk. 2012).

While a statute of limitations bars a claim after the passage of a specified time, the common-law rebuttable presumption of payment is, on the other hand, used as evidence, based on the lapse of time, to create a rebuttable inference that the debt has been paid or otherwise satisfied. The presumption is based on the assumption that a person, before the passage of twenty years, would have recovered what belonged to that person unless prevented by some impediment. The persuasiveness of the presumption may be strengthened or diminished by evidence supporting or contradicting the significance of the lapse of time. Kama v. Chuuk, 18 FSM R. 326, 335 (Chk. S. Ct. Tr. 2012).

The purpose of a statute of limitations is to require diligent prosecution of known claims, thereby providing finality and predictability in legal affairs and ensuring that claims will be resolved while evidence is reasonably available and fresh. Aunu v. Chuuk, 18 FSM R. 467, 469 n.2 (Chk. 2012).

The most frequent attorney error that may be the subject of a successful legal malpractice action is the attorney's failure to comply with a statute of limitation. Aunu v. Chuuk, 18 FSM R. 467, 469 n.2 (Chk. 2012).

When by the time the case was filed on January 14, 2010, the six-year statute of limitations would, even though it had been tolled by the filing of an earlier case, bar any claims arising before September 6, 2003, and when it is undisputed that all of the plaintiff's overtime claims were for 2002, the state has good grounds for and is entitled to summary judgment on its statute of limitations defense. Aunu v. Chuuk, 18 FSM R. 467, 470 (Chk. 2012).

The statute of limitations is an affirmative defense which, if not pled, is waived. Bank of Hawaii v. Susaia, 19 FSM R. 66, 69 n.2 (Pon. 2013).

When, since the State of Chuuk and its Governor cannot prevail on their limitations defense, the plaintiffs' motion for partial summary judgment will be granted against the defendant state because Chuuk was the borrower on the airport renovation loan but since the Governor is not liable on the loan partial summary judgment will not be granted against him. Eot Municipality v. Elimo, 19 FSM R. 290, 295-96 (Chk. 2014).

When the Social Security Board's decision was entered on August 27, 2013, and was received by the plaintiff on September 17, 2013, the 60-day deadline would fall on October 26, 2013, which would have given the plaintiff 39 days to file her claim after service of the Board's decision. She thus had adequate time to file her claim, and when she failed to file her claim in time pursuant to 53 F.S.M.C. 708, the court is unwilling to extend the timeframe to file a claim when the statute's language is clear, and the complaint will be dismissed based on its filing being untimely under 53 F.S.M.C. 708. Palikkun v. FSM Social Sec. Admin., 19 FSM R. 314, 317 (Kos. 2014).

When the allegations of the plaintiff's own complaint demonstrate that its claims are subject to the statute of limitations defense, the court may dismiss those claims on the statute of limitations ground, even though it is an affirmative defense. Palikkun v. FSM Social Sec. Admin., 19 FSM R. 314, 317 (Kos. 2014).

Under Rule 15(c), whenever the claim or defense asserted in an amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading. Rule 15(c) is based on the notion that once litigation involving particular conduct or a given transaction or occurrence has been instituted, the parties are not entitled to the protection of the statute of limitations against the later assertion by amendment of defenses or claims that arise out of the same conduct, transaction, or occurrence as set forth in the original pleading. Chuuk Health Care Plan v. Department of Educ., 19 FSM R. 435, 438-39 (Chk. 2014).

When, if claims for health insurance premium contributions due before March 16, 2006, had been included in the original complaint and if the FSM had asserted the six-year statute of limitations defense, the statutory defense would have barred their recovery, the proposed amended complaint's relation back to the original filing date of March 16, 2012, cannot revive those claims. The court will therefore permit the proposed amended complaint but bar the plaintiff from seeking any health insurance premium contributions due before March 16, 2006. Chuuk Health Care Plan v. Department of Educ., 19 FSM R. 435, 439 (Chk. 2014).

The general rule is that statutes of limitations do not run against the sovereign. The policy behind the rule is that the public interest should not be prejudiced by the negligence of public officials. FSM v. Muty, 19 FSM R. 453, 460 (Chk. 2014).

When the complaint was filed on November 26, 2014, the six-year statute of limitations would bar the plaintiffs' claims unless their cause of action accrued on or after November 26, 2008, or some event or action tolled the running of the limitations period so that the six years did not end until November 26, 2014 or later. Thus, events that took place in 2007, cannot successfully overcome a statute of limitations affirmative defense. Onanu Municipality v. Elimo, 20 FSM R. 535, 545 (Chk. 2016).

Even though it is an affirmative defense, a court may choose to dismiss claims based on the statute of limitations, when the allegations of the plaintiff's own complaint demonstrate that certain of its claims are subject to the defense. Tilfas v. Kosrae, 21 FSM R. 81, 87 (App. 2016).

When it is clear that the allegations in the plaintiff's own complaint demonstrate that his claims are subject to the statute of limitations defense, the court may dismiss those claims as time-barred even though the statute of limitations is an affirmative defense. But when there are significant factual issues that may affect the defendant's statute of limitations defense, a motion to dismiss on statute of limitations grounds must be denied. Tilfas v. Kosrae, 21 FSM R. 81, 91 (App. 2016).

When a complaint's allegations are subject to the defense that the statute of limitation has lapsed, a court may choose to dismiss the action, even though it is an affirmative defense. Lonno v. Heirs of Palik, 21 FSM R. 103, 107 (App. 2016).

A statute of limitation generally is not jurisdictional unless it is a limitations period for claims

against the government. Heirs of Preston v. Heirs of Alokoa, 21 FSM R. 572, 579 (App. 2018).

Raising a statute of limitation as a bar to a remedy does not deprive a court of jurisdiction to hear the cause in the first instance; the court could not adjudicate the question of proper application of the statute if it did not have subject matter jurisdiction. Heirs of Preston v. Heirs of Alokoa, 21 FSM R. 572, 579 (App. 2018).

The statute of limitations does not affect a court's jurisdiction because generally a statute of limitation is not jurisdictional unless it is a limitations period for claims against the government. Alik v. Heirs of Alik, 21 FSM R. 606, 621 (App. 2018).

Raising a statute of limitation as a bar to a remedy does not deprive a court of jurisdiction to hear the cause in the first instance; the court could not adjudicate the question of proper application of the statute if it did not have subject matter jurisdiction. Alik v. Heirs of Alik, 21 FSM R. 606, 621 (App. 2018).

When the allegations of the plaintiff's own complaint demonstrate that its claims are subject to the statute of limitations defense, the court may dismiss those claims on the statute of limitations ground, even though it is an affirmative defense. Helgenberger v. Ramp & Mida Law Firm, 22 FSM R. 4, 12 (Pon. 2018).

Even though it is an affirmative defense, a court may dismiss claims (or grant summary judgment thereon) based on the statute of limitations, when the allegations in the plaintiff's complaint demonstrate that its claims are subject to that defense. Panuelo v. Sigrah, 22 FSM R. 341, 357 (Pon. 2019).

A judgment for the plaintiff awarding him a sum of money creates a debt in that amount in his favor. The plaintiff may maintain proceedings by way of execution for enforcement of the judgment, the plaintiff may also be able to maintain an action upon the judgment. Ordinarily no useful purpose is served by bringing an action in the same state upon the judgment instead of executing upon it, but if the statute of limitations period has almost run, the plaintiff can bring an action upon the judgment and obtain a new judgment upon which the limitations period will run again. FSM Dev. Bank v. Carl, 22 FSM R. 365, 375 (Pon. 2019).

While ordinarily no advantage is gained by bringing an action in the same court upon a judgment, if the statute of limitation period has almost run upon the judgment, the judgment creditor can start the limitation period anew by bringing an action upon the judgment and obtaining a new judgment. FSM Dev. Bank v. Carl, 22 FSM R. 365, 375 (Pon. 2019).

– Accrual of Action

A statute of limitation begins to run when the cause of action accrues. Creditors of Mid-Pac Constr. Co. v. Senda, 4 FSM R. 157, 159 (Pon. 1989).

In an action to enforce an unpaid stock subscription, the statute of limitations begins to run against the creditors when it runs against the corporation. Creditors of Mid-Pac Constr. Co. v. Senda, 4 FSM R. 157, 159 (Pon. 1989).

When a stock subscription specifies the date of payment, including payment in installments at specified times, the corporation has no cause of action until the date specified and at that

time the statute of limitations begins to run. Creditors of Mid-Pac Constr. Co. v. Senda, 4 FSM R. 157, 159 (Pon. 1989).

Stock subscriptions which are silent as to the date and terms of payment do not become due until a call has been issued by the corporation or, if the corporation becomes insolvent without ever issuing such a call, then the cause of action to collect unpaid subscriptions accrues when the creditors, by authority of the court, first demand payment. Creditors of Mid-Pac Constr. Co. v. Senda, 4 FSM R. 157, 161 (Pon. 1989).

A cause of action accrues, and the statute of limitations begins to run, when a suit may be successfully maintained thereon. Where a note is payable in instalments, each instalment is a distinct cause of action and the statute of limitations begins to run against each instalment from the time it becomes due, that is, from the time when an action might be brought to recover it. Waguk v. Kosrae Island Credit Union, 6 FSM R. 14, 17 (App. 1993).

Since the statute of limitations does not commence running until after the cause of action accrues a prerequisite to determining the when the cause of action accrues is a precise clarification of the cause of action. Mid-Pacific Constr. Co. v. Semes (I), 6 FSM R. 171, 174 (Pon. 1993).

In general, a cause of action accrues when the right to bring suit on a claim is complete – the true test in determining when a cause of action arises or accrues is to establish the time when the plaintiff could have first maintained the action to a successful conclusion. Mid-Pacific Constr. Co. v. Semes (I), 6 FSM R. 171, 176 (Pon. 1993).

In cases where a cause of action is contingent on a condition precedent, the statute of limitations does not begin to run until the condition has occurred, and as to a continuing injury until damages are actually sustained. Mid-Pacific Constr. Co. v. Semes (I), 6 FSM R. 171, 176 (Pon. 1993).

A cause of action based on violation of Corporations, Partnerships, and Associations Regulation 2.7 accrues from the point of insolvency of the corporation. Mid-Pacific Constr. Co. v. Semes (I), 6 FSM R. 165, 176-77 (Pon. 1993).

In general, the statute of limitations in an action for fraud begins to run from the time of discovery of the fraud, or when reasonable diligence should have led to discovery of the fraud. Mid-Pacific Constr. Co. v. Semes (I), 6 FSM R. 171, 177 (Pon. 1993).

Claims for torts that took place before 1951 accrued, at the latest, when the applicable Trust Territory statute took effect in 1951. Unless tolled, the statutes of limitation bar the FSM courts from adjudicating such claims. Alep v. United States, 6 FSM R. 214, 219-20 (Chk. 1993).

For actions for the recovery of land or any interest therein the statute of limitations is twenty years after the cause of action accrues, which is when a suit may first be successfully maintained thereon. Nahnken of Nett v. Pohnpei, 7 FSM R. 485, 488-89 & n.1 (App. 1996).

The date of accrual for a contribution cause of action is the day the judgment was entered. Obviously a prerequisite to any successful contribution action based on a judgment is the judgment itself. The limitations period for a contribution action is six years. Senda v. Semes, 8

FSM R. 484, 500-01 (Pon. 1998).

In an action brought to recover the balance due upon a mutual and open account, or upon a cause of action on which partial payments have been made, the cause of action shall be considered to have accrued at the time of the last item proved in the account. Mid-Pacific Liquor Distrib. Corp. v. Edmond, 9 FSM R. 75, 78 (Kos. 1999).

A statute of limitations begins to run when the cause of action accrues. When a complaint alleges that a defendant's anticompetitive actions forced the plaintiff out of business the cause of actions accrues when the plaintiff went out of business. AHPW, Inc. v. FSM, 9 FSM R. 301, 304 (Pon. 2000).

A cause of action accrues, and the statute of limitations begins to run, when a suit may be successfully maintained thereon. Jonah v. Kosrae, 9 FSM R. 335, 344 (Kos. S. Ct. Tr. 2000).

The statute of limitations does not begin to run as to a continuing injury until damages are sustained. Jonah v. Kosrae, 9 FSM R. 335, 344 (Kos. S. Ct. Tr. 2000).

The general rule applicable to negligence actions is that the statute of limitations runs from the time of the negligent act or omission, even though the total damage cannot be ascertained until a later date. Jonah v. Kosrae, 9 FSM R. 335, 344 (Kos. S. Ct. Tr. 2000).

When the original cause of injury is permanent in nature, and the damages may be recovered in one action, then the statute of limitations generally attaches at the time the act complained of is done. Jonah v. Kosrae, 9 FSM R. 335, 344 (Kos. S. Ct. Tr. 2000).

A plaintiff's claim for payment arises at the time that the payment became due because a cause of action arises when the right to bring suit on a claim is complete: the true test in determining when a claim arose is based upon when the plaintiff first could have maintained the action. E.M. Chen & Assocs. (FSM), Inc. v. Pohnpei Port Auth., 9 FSM R. 551, 556-57 (Pon. 2000).

When under the parties' contract, the defendant was to pay plaintiff within one year from the time that the defendant accepted the plaintiff's Master Plan and the Master Plan was accepted on October 3, 1994, the plaintiff's claim against defendant arose one year later on October 4, 1995. E.M. Chen & Assocs. (FSM), Inc. v. Pohnpei Port Auth., 9 FSM R. 551, 557 (Pon. 2000).

The settled rule that the statute of limitations begins to run upon the accrual of a cause of action applies in actions on implied and quasi contracts. When compensation for services is to be made on a certain date, the statute of limitations on an implied or quasi contract begins to run at that time. E.M. Chen & Assocs. (FSM), Inc. v. Pohnpei Port Auth., 9 FSM R. 551, 559 (Pon. 2000).

In general, a cause of action accrues when the right to bring suit on a claim is complete. The true test in determining when a cause of action arises or accrues is to establish the time when the plaintiff could have first maintained the action to a successful conclusion. Skilling v. Kosrae, 9 FSM R. 608, 611 (Kos. S. Ct. Tr. 2000).

While the plaintiff was a state employee, he was subject to the administrative procedures specified for grievances, but when his administrative action was still pending when he retired in 1997, because his grievance had never been ruled on, he was no longer an employee required

to comply with the administrative procedures. His right to bring suit on his claim did not become complete and his cause of action therefore did not accrue his early retirement resulted in termination from state government employment. Skilling v. Kosrae, 9 FSM R. 608, 613 (Kos. S. Ct. Tr. 2000).

For purposes of determining when the statute of limitations ran, a plaintiff's claim for payment arose at the time that the payment became due. E.M. Chen & Assocs. (FSM), Inc. v. Pohnpei Port Auth., 10 FSM R. 400, 405 (Pon. 2001).

When payment became due on October 4, 1995 and the statute of limitations would run on October 4, 1997, a March, 1997 letter demanding arbitration in accordance with the contract was within the statute of limitations. E.M. Chen & Assocs. (FSM), Inc. v. Pohnpei Port Auth., 10 FSM R. 400, 407 (Pon. 2001).

The accrual of a cause of action for recovery of land begins when a suit may successfully be maintained upon. Where a cause of action for recovery of land accrued when the Determinations of Ownership were served and when the complaint was filed within twenty years of service, the cause of action for the recovery of land falls within the twenty year limitations period and is not barred by the statute of limitations. Sigrah v. Kosrae State Land Comm'n, 11 FSM R. 169, 174 (Kos. S. Ct. Tr. 2002).

A cause of action accrues when the right to bring suit to a claim is complete. This is established at the time when the plaintiff could have first maintained the action to a successful conclusion. Kosrae v. Skilling, 11 FSM R. 311, 315 (App. 2003).

When, despite several tries by counsel, a state employee's 1987 written grievance was never acted upon due to the state's inaction throughout the administrative process although the applicable statutes entitled him to a written response, the employee's cause of action accrued and the statute of limitations began to run only when he left state employment in 1997. The state's own inaction cannot be used to run against the six-year statute of limitations. Kosrae v. Skilling, 11 FSM R. 311, 316-17 (App. 2003).

The statute of limitations begins to run from the time that the cause of action accrues, which is to say from the time that a plaintiff first could have initiated a lawsuit on the cause of action alleged. Segal v. National Fisheries Corp., 11 FSM R. 340, 342 (Kos. 2003).

In an installment contract setting, the statute of limitations begins to run from the time that each installment is due. Segal v. National Fisheries Corp., 11 FSM R. 340, 342 (Kos. 2003).

A cause of action to collect salary or wages accrues when an employee has a right to collect the money allegedly owed to him. Thus the statute of limitations began to run from the time that each plaintiff's pay for any specific pay period was due. Segal v. National Fisheries Corp., 11 FSM R. 340, 342 (Kos. 2003).

When, if the plaintiffs' March, 1996 termination of employment was permitted by the terms of their respective contracts, then no wage claims accrued after their; if the terminations violated the contracts, then wage claims would have continued to accrue from then until the contracts ended by their terms on July 5, 1996, but any wage claims that had accrued – i.e., claims for wages that had become due and payable – before the July 4, 1996 complaint was filed, are time

barred. Segal v. National Fisheries Corp., 11 FSM R. 340, 342-43 (Kos. 2003).

Given that a cause of action accrues when a suit can be successfully maintained thereon, it is indisputable that if the construction was in fact defective, a suit could have been maintained from the date that construction was completed. Youngstrom v. NIH Corp., 12 FSM R. 75, 77 (Pon. 2003).

Under the Pohnpei statute of limitations, if anyone who is liable to any action fraudulently conceals the cause of action from the knowledge of the person entitled to bring it, the action may be commenced at any time within the times limited within the statute after the person who is entitled to bring the same shall discover or shall have had reasonable opportunity to discover that he has such cause of action, and not afterwards. Youngstrom v. NIH Corp., 12 FSM R. 75, 77 (Pon. 2003).

If a plaintiff fraudulently conceals allegedly defective construction methods, the six-year limitations period does not begin to run until the date on which the defendant discovered or had a reasonable opportunity to discover the alleged defect. It is not appropriate for the court, at the juncture of a motion to dismiss, to rule on an essentially factual matter. The trial's purpose will be to determine whether the construction methods that are alleged were, in fact, utilized; whether those methods were improper; and if they were, at what point the defendant knew or should have known of them. Youngstrom v. NIH Corp., 12 FSM R. 75, 77-78 (Pon. 2003).

A cause of action accrues when the right to bring suit on a claim is complete. The true test in determining when a cause of action arises or accrues is to establish the time when the plaintiff could have first maintained the action to a successful conclusion. Skilling v. Kosrae State Land Comm'n, 13 FSM R. 16, 19 (Kos. S. Ct. Tr. 2004).

A cause of action accrues when the right to bring suit on a claim is complete. The true test in determining when a cause of action arises or accrues is to establish the time when the plaintiff could have first maintained the action to a successful conclusion. Kinere v. Kosrae Land Comm'n, 13 FSM R. 78, 81 (Kos. S. Ct. Tr. 2004).

A claim against Pohnpei has accrued when all of the facts comprising said claim exist, regardless of whether said facts are known or have been discovered by the claimant. Mobil Oil Micronesia, Inc. v. Pohnpei Port Auth., 13 FSM R. 223, 227 (Pon. 2005).

Applying the Pohnpei Government Liability Act statute of limitations, as well as its test for determining when a claim accrues, Mobil's cause of action for contract reformation accrued on September 30, 1997 when it signed the lease agreement underlying this lawsuit since all facts comprising its cause of action for reformation existed at that time whether Mobil knew it or not. Accordingly, Mobil was required to file its claim for reformation by no later than September 30, 1999. Because it did not do so, the claim will be dismissed. Mobil Oil Micronesia, Inc. v. Pohnpei Port Auth., 13 FSM R. 223, 227 (Pon. 2005).

If an action accrued to a predecessor in interest, the twenty years statute of limitations is computed when the action first accrued to the predecessor. The statute of limitations does not start to run all over again each time there is a new successor in interest. Dereas v. Eas, 14 FSM R. 446, 457 (Chk. S. Ct. Tr. 2006).

The statute of limitations for claiming a violation of due process by the government is

covered by the six-year period found in Kosrae Code section 6.2506. Thus, claims against the Land Commission for violation of due process and for failing to apply statutes are governed by the six year statute of limitations. Since the statute of limitations begins to run when a cause of action accrues, when, if there was a violation of due process, the latest time it accrued was when the certificate of title was issued in 1997, and since more than six years passed before the plaintiff asserted his claim, any claim based on a violation of his right to due process fails because it was not filed within the six-year period and will be dismissed. Andon v. Shrew, 15 FSM R. 315, 320 (Kos. S. Ct. Tr. 2007).

Whether a plaintiff's cause of action for slander is time-barred depends on when that cause of action accrued. In general, a cause of action accrues when the right to bring suit on a claim is complete – the true test in determining when a cause of action arises or accrues is to establish the time when the plaintiff could have first maintained the action to a successful conclusion. Jano v. Fujita, 15 FSM R. 405, 408 (Pon. 2007).

As a general rule, a cause of action for libel or slander accrues, so as to start the running of limitations, at the time of publication, and not on the date of discovery of the wrong, or when the alleged injury occurred. Jano v. Fujita, 15 FSM R. 405, 408 (Pon. 2007).

A cause of action for libel accrues, so as to start the running of limitations, at the time of publication, and not on the date of discovery of the wrong, or when the alleged injury occurred. Jano v. Fujita, 15 FSM R. 494, 497 (Pon. 2008).

The statute of limitations begins to run when a cause of action accrues. When claims against the Land Commission of negligence, violations of due process and for failing to apply statutes accrued either at the time the determination of ownership was issued or when the certificate of title was issued in February 1986, more than six years has passed since those claims accrued and therefore, the statute of limitations has run and those claims must be dismissed. Allen v. Allen, 15 FSM R. 613, 619-20 (Kos. S. Ct. Tr. 2008).

The time for filing an appeal from a Land Commission determination of ownership is not the starting point for the statute of limitations. The starting point for the statutes of limitation set out in Kosrae State Code §§ 6.2503-2306 is the time the action accrued. An action accrues for recovery of land at the time a suit may have been successfully maintained upon, which is when the determination of ownership was issued. It is not related to the service of the determination of ownership. Allen v. Allen, 15 FSM R. 613, 620 (Kos. S. Ct. Tr. 2008).

When a promissory note is payable in instalments, each instalment is a distinct cause of action and the statute of limitations begins to run against each instalment from the time it becomes due, that is, from the time when an action might be brought to recover it. FSM Dev. Bank v. Chuuk Fresh Tuna, Inc., 16 FSM R. 335, 338 (Chk. 2009).

A cause of action arises or accrues when the right to bring suit on a claim is complete; that is, when the plaintiff could have first maintained the action to a successful conclusion. Allen v. Allen, 17 FSM R. 35, 39 (App. 2010).

A cause of action does not accrue for the purposes of a statute of limitations until all elements are present, including damages. Allen v. Allen, 17 FSM R. 35, 39 (App. 2010).

When a plaintiff's claims against the Land Commission are all based on either allegations that he had not received notice of the 1983 and 1984 Land Commission hearings or on the allegation that the Land Commission failed to serve him the February 1986 determination of ownership, his cause of action accrued in February 1986 (or within a reasonable time thereafter to allow for the service he alleges was required) and any claims about lack of notice for the earlier hearings also accrued then because that is when the last element of his several causes of action – damages – occurred. Up until then he could not allege that he had suffered any damages because no one had yet been determined the owner of the parcel. Allen v. Allen, 17 FSM R. 35, 40 (App. 2010).

Although service of a determination of ownership was a necessary condition precedent to start the statutory 120-day time period within which a Land Commission determination can be appealed, this does not have a bearing on a plaintiff's cause of action when he asserts that he was never a party in the Land Commission proceedings and he was not served notice of the hearing or of the determination of ownership since the plaintiff could have sued the named owner anytime after February 25, 1986 determination of ownership, or at the latest, after the March 4, 1986 service on the family representative, because all of the elements of his alleged causes of action were present by then. Allen v. Allen, 17 FSM R. 35, 40 (App. 2010).

Courts have characterized the date from which a limitations period starts running as from when the cause of action accrues and that a cause of action accrues when a suit may first be successfully maintained thereon. Dungawin v. Simina, 17 FSM R. 51, 54 (Chk. 2010).

A cause of action against the State of Chuuk accrues or arises and the limitations period starts running from the date on which the event triggering the cause of action occurred. Dungawin v. Simina, 17 FSM R. 51, 54 (Chk. 2010).

When a state employee was forced to leave state employment in December 2002, the six-year statute of limitations for claims against the state started running then because it was the date on which the event triggering the cause of action occurred and it was also the time when he could have first successfully maintained a suit on his claim he should not have been forced to resign. Dungawin v. Simina, 17 FSM R. 51, 54 (Chk. 2010).

An unjust enrichment claim has not accrued (and may never accrue) when the prerequisite for the unjust enrichment claim – having an earlier judgment set aside – still has not occurred and may never occur. AHPW, Inc. v. Pohnpei, 18 FSM R. 1, 9 (Pon. 2011).

A cause of action arises or accrues when the right to bring suit on a claim is complete; that is, when the plaintiff could have first maintained the action to a successful conclusion. Iwo v. Chuuk, 18 FSM R. 252, 254 (Chk. 2012).

A cause of action on a salvage contract accrues and the statute of limitations period starts to run on the day on which the salvage operations are terminated or the vessel and any part of the cargo is delivered to a safe port. Adams Bros. Corp. v. SS Thorfinn, 19 FSM R. 1, 11 (Pon. 2013).

By Pohnpei statute, in an action brought to recover the balance due upon a mutual and open account, or upon a cause of action upon which partial payments have been made, the cause of action is considered to have accrued at the time of the last item proved in the account.

Bank of Hawaii v. Susaia, 19 FSM R. 66, 70 n.3 (Pon. 2013).

A cause of action accrues and the statute of limitations begins to run, when a suit may be successfully maintained thereon. When a note is payable in installments, each installment is a distinct cause of action and the statute of limitations begins to run against each installment from the time it becomes due, that is, from the time when an action might be brought to recover it. Bank of Hawaii v. Susaia, 19 FSM R. 66, 70 (Pon. 2013).

In an action brought to recover the balance due upon a mutual and open account, or upon a cause of action on which partial payments have been made, the cause of action shall be considered to have accrued at the time of the last item proved in the account. Eot Municipality v. Elimo, 19 FSM R. 290, 294-95 (Chk. 2014).

When it is unclear from what the court has before it exactly when Chuuk made a loan repayment but it must have been some time after April 2005, otherwise that payment would have reduced the loan principal by some degree and since that partial loan repayment was also an acknowledgment of the debt Chuuk owed the municipalities for the airport renovation loan, the plaintiffs' cause of action could not have first accrued and the statute of limitations could not have started to run in 1999 when the loan was made or in 2002 when the loans, as per the memorandum of understanding between Chuuk and its municipalities, started to earn interest. Eot Municipality v. Elimo, 19 FSM R. 290, 295 (Chk. 2014).

Since a partial payment constitutes an acknowledgment of the debt, it is implicitly treated as a new promise to pay, and a new promise to pay has the effect of starting any limitations period all over again. Eot Municipality v. Elimo, 19 FSM R. 290, 295 (Chk. 2014).

When repayment of the airport renovation loan was due a reasonable time after the \$500,104.65 partial payment and when, without identifying the exact date that would constitute a reasonable time after the partial payment that the repayment should be complete, the court is confident that, based on the attendant circumstances, that time frame would be within the six-year period before suit was filed on January 24, 2012. Eot Municipality v. Elimo, 19 FSM R. 290, 295 (Chk. 2014).

In general, the statute of limitations in an action for fraud begins to run from the time of discovery of the fraud or when reasonable diligence should have led to discovery of the fraud. FSM v. Muty, 19 FSM R. 453, 460-61 (Chk. 2014).

The true test in determining when a claim arose, is based upon when the plaintiff first could have maintained the action. Setik v. Mendiola, 20 FSM R. 236, 243 (Pon. 2015).

For purposes of determining when the statute of limitations ran, it is well established, that the plaintiffs' claim for payment arose at the time the relevant payment became due. Setik v. Mendiola, 20 FSM R. 236, 243 (Pon. 2015).

A cause of action accrues when the right to bring suit is complete. This is established at the time when the plaintiff could have first maintained the action to a successful conclusion. Setik v. Mendiola, 20 FSM R. 236, 243 (Pon. 2015).

The true test in determining when a claim arose, is based upon when the plaintiff first could have maintained the action. Setik v. Mendiola, 20 FSM R. 320, 326 (Pon. 2016).

The applicable statute provides that in an action brought upon a cause of action on which partial payments have been made, the cause of action is considered to have accrued at the time of the last item proved in the account. Sam v. FSM Dev. Bank, 20 FSM R. 409, 418 (App. 2016).

A cause of action does not accrue for the purposes of a statute of limitations until all elements are present, including damages. Eot Municipality v. Elimo, 20 FSM R. 482, 490 (Chk. 2016).

In a cause of action on which partial payments have been made, the cause of action is considered to have accrued at the time of the last item proved in the account. Pacific Fin. Corp. v. David, 21 FSM R. 5, 6 (Chk. 2016).

When no admissible evidence is submitted to prove the last item alleged in the defendant's account – an alleged October 21, 2011 payment – and when the plaintiff has submitted affidavits by its attorney and by its vice-president, that interest of 23.75% has accrued on the June 15, 2000 principal balance of \$1,075.17 equaling \$4,164.70 between then and October 6, 2016, the reasonable inference can be drawn that there were no payments on the defendant's promissory note after June 15, 2000. The plaintiff has thus failed to show that there are no genuine issues as to any material fact on the defendant's affirmative defense of statute of limitations. Pacific Fin. Corp. v. David, 21 FSM R. 5, 6 (Chk. 2016).

The questions of when a statute of limitations begins to run, whether and when the statute is tolled, and whether a claim is barred by the statute of limitations are questions of law to be reviewed de novo. Tilfas v. Kosrae, 21 FSM R. 81, 86 (App. 2016).

A cause of action accrues, and the statute of limitations begins to run, when a suit may be successfully maintained thereon – when the plaintiff could have first maintained the action to a successful conclusion. Tilfas v. Kosrae, 21 FSM R. 81, 87, 89 (App. 2016).

A cause of action to collect salary or wages accrues when an employee has a right to collect the money allegedly owed to him. Tilfas v. Kosrae, 21 FSM R. 81, 89 (App. 2016).

A school teacher could not have successfully maintained a cause of action for improper salary classification as of the date of his initial hiring when he had not submitted documentation to the government proving his educational background, thereby giving him a right to collect the higher salary allegedly owed to him. His cause of action began to accrue when, if ever, he submitted the relevant documents necessary to prove he should have been placed at the higher pay level. Tilfas v. Kosrae, 21 FSM R. 81, 89 (App. 2016).

When a state employee's claim for wrongful probation status accrued, at the very latest, on August 26, 1989, because that was when the event triggering the cause of action occurred and when he could have first successfully maintained a suit on his claim since he remained classified as a probationary employee despite working, as of then, one day longer than one year. Thus, when that employee first exercised his administrative remedies and filed a grievance on April 30, 1997, his action for wrongful probationary status is time-barred because his grievance and the initiation of this lawsuit clearly fall outside the six-year statute of limitations. Tilfas v. Kosrae, 21 FSM R. 81, 92 (App. 2016).

When the borrowers made numerous payments and substantially reduced the principal from \$17,831.33 to \$6,468.20 (as of October 21, 2019), all of the earlier installments have been paid off, leaving only the later installments unpaid and very clearly within the statute of limitations period. Pacific Islands Dev. Bank v. Sigrah, 22 FSM R. 600, 606 (Pon. 2020).

– Tolling

The Federated States of Micronesia tolling statute, 6 F.S.M.C. 806, applies to persons "entitled to a cause of action," including minors for whom wrongful death actions may be brought. Luda v. Maeda Road Constr. Co., 2 FSM R. 107, 113-14 (Pon. 1985).

The two-year period proclaimed in 6 F.S.M.C. 503(2) is subject to the tolling provisions of 6 F.S.M.C. 806. Accordingly, the statute of limitations has not run against the minor children in this case. Sarapio v. Maeda Road Constr. Co., 3 FSM R. 463, 464 (Pon. 1988).

Nothing in the Compact suspends or tolls the statute of limitations. Alep v. United States, 7 FSM R. 494, 499 (App. 1996).

The statute of limitations has run on claims of mismanagement of the Micronesian Claims Act unless there was continuing unlawful conduct that would create a basis for equitable tolling of the statute of limitations. Alep v. United States, 7 FSM R. 494, 499 (App. 1996).

Because leave to amend a pleading shall be freely given when justice so requires, a plaintiff may be granted leave to amend its complaint to present its argument that the statute of limitations may have been tolled based upon its request that the parties submit their dispute to arbitration when the defendant has not presented any arguments that would show any injustice if the plaintiff amended its complaint. E.M. Chen & Assocs. (FSM), Inc. v. Pohnpei Port Auth., 9 FSM R. 551, 559 (Pon. 2000).

Adverse possession is not a claim that can be made against registered land, or land that has been one step (determination of boundaries) away from being registered land since 1981, and the filing of a trespass suit tolls (suspends) any running of the time period needed to assert an adverse possession claim. Church of the Latter Day Saints v. Esiron, 13 FSM R. 99a, 99e (Chk. 2004).

When the plaintiffs have not put forward any grounds that could toll the running of the statute of limitations although they have had an adequate opportunity to do so since the defendants' answer put them on notice that the statute of limitations defense would be asserted and when the plaintiffs were thus not prejudiced by the defendants' failure to bring a separate motion asserting the defense because they had been on notice that they would be required to show why or which of their claims would not be barred by the statute of limitations, summary judgment for the defendants will be granted on the issue of statute of limitations. Zion v. Nakayama, 13 FSM R. 310, 314 (Chk. 2005).

A defendant's wrongful conduct may toll or suspend the running of the statute of limitations as a form of estoppel – a defendant is estopped from raising the defense of statute of limitations because by his wrongful conduct he induced the plaintiff not to sue until the statute of limitations had run out. Pohnpei v. AHPW, Inc., 14 FSM R. 1, 18 n.3 (App. 2006).

A statute of limitation may be tolled (suspended) if the person who is liable to any action fraudulently conceals the cause of action from the knowledge of a person entitled to bring the action. Dereas v. Eas, 14 FSM R. 446, 457-58 (Chk. S. Ct. Tr. 2006).

Generally, filing a lawsuit tolls a statute of limitations. However, for a lawsuit to toll a statute of limitation, that lawsuit must be against the proper party. Dereas v. Eas, 15 FSM R. 135, 139 (Chk. S. Ct. Tr. 2007).

A suit against one person does not arrest the running of the statute of limitations period against another. Dereas v. Eas, 15 FSM R. 135, 139 (Chk. S. Ct. Tr. 2007).

A suit begun against a stranger, or one who sustains no such relation to the proper defendant that a judgment against him would bind such defendant, can have no effect on the operation of the statute of limitations in favor of the party against whom the cause of action properly exists. Dereas v. Eas, 15 FSM R. 135, 139 (Chk. S. Ct. Tr. 2007).

When neither a 1996 lawsuit nor a 2002 lawsuit included any party, that if a judgment were rendered against that party, the judgment would bind the non-movant, and when the non-movant was not a party to either lawsuit, those 1996 and 2002 lawsuits could not have tolled the operation of the statute of limitations in non-movant's favor. Dereas v. Eas, 15 FSM R. 135, 139 (Chk. S. Ct. Tr. 2007).

There are circumstances where a statute of limitations may be tolled, or temporarily suspended. For example, statutory language may include such an exception by stating that an action accrues when a person has knowledge of or discovered the action that caused the injury. This kind of exception is commonly called the "discovery rule." The Kosrae statutes do not include exceptions, but in some jurisdictions, courts apply this exception even though it is not specifically included in the statute of limitations. Allen v. Allen, 15 FSM R. 613, 620 (Kos. S. Ct. Tr. 2008).

The service of a notice or the failure to serve a notice does not suspend the operation of a statute of limitation. Allen v. Allen, 15 FSM R. 613, 620 (Kos. S. Ct. Tr. 2008).

If the Kosrae State Court were to allow a plaintiff to initiate an action beyond the statute of limitations deadline, a plaintiff would have to demonstrate extraordinary circumstances and would carry the burden of proving the plaintiff was entitled to an exception to the statute. Allen v. Allen, 15 FSM R. 613, 620 (Kos. S. Ct. Tr. 2008).

Chuuk's inaction in responding to a former state employee's February 17, 2006 request for payment of lost wages does not toll statute of limitation on the former employee's cause of action for wrongful termination in December 2002. Dungawin v. Simina, 17 FSM R. 51, 54 (Chk. 2010).

Generally, pending litigation will toll the running of any statutory limitations periods. Aunu v. Chuuk, 18 FSM R. 48, 51 (Chk. 2011).

The running of a statute of limitations can be tolled – suspended – by certain events. A defendant's wrongful conduct can, as a form of estoppel, toll or suspend the running of a statute

of limitations – for instance, a defendant would be estopped from raising a statute of limitations defense when, by his wrongful conduct, he induced the plaintiff not to sue until the statute of limitations had run out. Iwo v. Chuuk, 18 FSM R. 252, 254 (Chk. 2012).

When a defendant's alleged promise of compensation and its alleged subsequent repudiation of that promise may have tolled the running of the statute of limitations are undated, the plaintiff's cause of action might not, depending on the circumstances, be time-barred, and thus his proposed amended complaint is not futile on its face. Iwo v. Chuuk, 18 FSM R. 252, 255 (Chk. 2012).

A statute of limitations runs against the claims of infants in the absence of a contrary statute or provision. Tarauo v. Arsenal, 18 FSM R. 270, 273 (Chk. 2012).

A two-year statute of limitations will tolled by statute in favor of a minor for whose benefit the action has been brought. Tarauo v. Arsenal, 18 FSM R. 270, 273 (Chk. 2012).

When the original lawsuit was filed on August 7, 2008, the statute of limitations would have barred recovery for any claims for overtime hours worked before August 7, 2002, but while that lawsuit was pending, any further running of the statute of limitations would have been tolled (suspended) for any overtime claims after August 7, 2002. Aunu v. Chuuk, 18 FSM R. 467, 469 (Chk. 2012).

For a lawsuit to toll a statute of limitation, that lawsuit must be against the proper party. Aunu v. Chuuk, 18 FSM R. 467, 470 (Chk. 2012).

A contention that if a creditor, which was receiving partial payments, had wanted to recover the entire debt it would have to sue on each of the missed installment payments before the installment was six years old, makes no sense. Sam v. FSM Dev. Bank, 20 FSM R. 409, 418 (App. 2016).

Under the partial payment rule – that partial payment on the whole debt will toll the running of the statute of limitations – an acknowledgment or promise to perform a previously defaulted contract obligation is effectual, whether oral or in writing, at least in certain types of cases, to start the statute of limitations running anew. Sam v. FSM Dev. Bank, 20 FSM R. 409, 418 (App. 2016).

Whether a partial payment constitutes unequivocal acknowledgment of the whole debt from which an unconditional promise to pay can be implied thereby tolling the statute of limitations is a question for the trier of fact. Sam v. FSM Dev. Bank, 20 FSM R. 409, 418 (App. 2016).

When a letter signed by both parties clearly states that the partial payments were a "repayment plan for the outstanding balance of the loan," it cannot be interpreted in any way other than as an acknowledgment of the whole debt and that the agreed \$100 payments were partial payments on the whole debt. Sam v. FSM Dev. Bank, 20 FSM R. 409, 418 (App. 2016).

When a debtor had made partial payments within the limitations period, under both the common law and statutory law (Pohnpei statutory law taking precedence), the statute of limitations will not bar the creditor from proceeding against the debtor for the entire outstanding balance. Sam v. FSM Dev. Bank, 20 FSM R. 409, 419 (App. 2016).

There is substantial authority for the proposition that partial payments by a principal debtor do not toll the statute of limitations as to the note's guarantors. The rationale behind this general rule is that a guarantor's consent to the debtor's future conduct may not be presumed merely on the basis of the original guarantee. Sam v. FSM Dev. Bank, 20 FSM R. 409, 419 (App. 2016).

The general rule is that a payment by the principal before the action is time-barred, operates as a renewal as to the principal, and to a surety, but not to a guarantor. Sam v. FSM Dev. Bank, 20 FSM R. 409, 419 (App. 2016).

A payment by the principal debtor will not operate to toll the statute of limitations as to a guarantor of the debt, even though it might do so as to a surety. Sam v. FSM Dev. Bank, 20 FSM R. 409, 419 (App. 2016).

When the trial court correctly decided that the statute of limitations was tolled by the debtor's partial payments, but did not separately determine whether those partial payments also tolled the statute of limitations with respect to the guarantor mortgagors, the appellate court will vacate the trial court judgment against the mortgagors and remand the matter for the trial court to conduct further proceedings to make that determination since that determination may need factual findings about whether the mortgagors were aware that the debtor was making partial payments and whether they acquiesced to the acknowledgment of the debt, and the trial court is the place to address those factual issues. Sam v. FSM Dev. Bank, 20 FSM R. 409, 419 (App. 2016).

The statutory sixty-day period to appeal a Kosrae Land Court decision is tolled until proper service is made. Serving notice of a Land Court adjudication or decision, is required in order to give the party a chance to appeal, and if a party is not properly served the Land Court's written determination of ownership, the statutory sixty-day appeals period does not run against that party. Esau v. Penrose, 21 FSM R. 75, 81 (App. 2016).

The questions of when a statute of limitations begins to run, whether and when the statute is tolled, and whether a claim is barred by the statute of limitations are questions of law to be reviewed de novo. Tilfas v. Kosrae, 21 FSM R. 81, 86 (App. 2016).

If a public employee does not prevail on his grievance, then he could have sought judicial review of the decision within the applicable six-year statute of limitations, but when the employee received a decision in his favor, the statute of limitations was immediately suspended and the State's own inaction thereafter cannot be used to run the six-year statute of limitations. Tilfas v. Kosrae, 21 FSM R. 81, 90 (App. 2016).

The statute of limitations cannot be said to have continued to run as against a public employee's claim when the administrative decision was issued in his favor and the administrative grievance process was still pending as to a determination of damages. Tilfas v. Kosrae, 21 FSM R. 81, 90 (App. 2016).

The running of a statute of limitations can be tolled – suspended – by certain events. A defendant's wrongful conduct can, as a form of estoppel, toll or suspend the running of a statute of limitations. Tilfas v. Kosrae, 21 FSM R. 81, 90 (App. 2016).

The statute of limitations does not to continue to run against a state employee when a favorable decision was rendered to him. To come to such a conclusion would mean any agency could immunize itself from judicial review simply by extending delay for six years or until the statute of limitations has run. Therefore, the statute of limitations was suspended when the favorable decision was rendered on December 12, 2001 until the January 22, 2015 decision to overturn the first determination, and thus a petition for writ of mandamus filed in Kosrae State Court on April 1, 2015 was, as a result of the tolled period, well within the six-year limitations period. Tilfas v. Kosrae, 21 FSM R. 81, 91 (App. 2016).

The twenty-year statute of limitations would be an effective affirmative defense against an action on a February 11, 1999 judgment filed after February 11, 2019, but when the action on a judgment was filed January 8, 2019, it was begun within the statutory period, and is thus timely and may proceed to judgment. This is because once an action on a judgment has begun within the statutory period, the creditor's right to recover remains alive, even though the limitation period may subsequently expire. FSM Dev. Bank v. Carl, 22 FSM R. 365, 375 (Pon. 2019).

The institution of an action on a judgment within the statutory period tolls the statute although it is not followed by rendition of judgment, or even service of an answer, within such time. FSM Dev. Bank v. Carl, 22 FSM R. 365, 375 (Pon. 2019).

The institution of an action on a judgment within the twenty-year statutory period set by 6 F.S.M.C. 802(1)(a) tolls that limitation statute even though the court has not yet rendered a judgment and even despite that a defendant did not file and serve her answer within the statutory time period. Because the timely filing of the action tolled the statutory time period, the statute, 6 F.S.M.C. 801, that creates a presumption of satisfaction after the twenty years has passed, does not come into play. FSM Dev. Bank v. Carl, 22 FSM R. 365, 375 (Pon. 2019).

– Which Limitation Applies

The Trust Territory of the Pacific Islands is a political entity possessing many of the attributes of an independent nation, and is to be regarded as a sovereign for the purpose of the statute of limitations. FSM Dev. Bank v. Yap Shipping Coop., 3 FSM R. 84, 86 (Yap 1987).

In the absence of any law or regulation in the Federated States of Micronesia which provides a specific limitation on actions to collect unpaid stock subscriptions, the applicable period is six years. Creditors of Mid-Pac Constr. Co. v. Senda, 4 FSM R. 157, 159 (Pon. 1989).

The applicable period of limitations on actions arising under the Corporations, Partnerships and Associations Regulations is six years. 6 F.S.M.C. 805. Mid-Pacific Constr. Co. v. Semes (I), 6 FSM R. 171, 174 (Pon. 1993).

An action for damages for negligent surveying is not an action for the recovery of an interest in land, for which the twenty year statute of limitation would apply, therefore it may be barred by the lesser statute of limitations. Damarlane v. United States, 6 FSM R. 357, 361 (Pon. 1994).

Subsequent to the effective date of the Compact the two-year statute of limitations applies to trespass and nuisance suits against the Trust Territory of the Pacific Islands. Jurisdiction over claims for acts or omissions of the government of the Trust Territory of the Pacific Islands is limited to those arising prior to the effective date of the Compact of Free Association.

Damarlane v. United States, 7 FSM R. 167, 168 (Pon. 1995).

The statute of limitation for a claim against the State of Chuuk based upon the act or omission of a policeman in connection with the performance of his official duties is two years after the cause of action accrues. Kaminaga v. Chuuk, 7 FSM R. 272, 274 (Chk. S. Ct. Tr. 1995).

For actions for the recovery of land or any interest therein the statute of limitations is twenty years after the cause of action accrues, which is when a suit may first be successfully maintained thereon. Nahnken of Nett v. Pohnpei, 7 FSM R. 485, 488-89 & n.1 (App. 1996).

After November 25, 1986, a claim for recovery of taxes paid under an unconstitutional Yap statute is subject to a two-year statute of limitations. Gimnang v. Yap, 7 FSM R. 606, 607, 611 (Yap S. Ct. Tr. 1996).

An action on a judgment may be maintained up to twenty years after the date of entry of the judgment. Senda v. Creditors of Mid-Pacific Constr. Co., 7 FSM R. 664, 672 (App. 1996).

The applicable statute of limitations period for adverse possession is twenty years. Iriarte v. Etscheit, 8 FSM R. 231, 239 (App. 1998).

The date of accrual for a contribution cause of action is the day the judgment was entered. Obviously a prerequisite to any successful contribution action based on a judgment is the judgment itself. The limitations period for a contribution action is six years. Senda v. Semes, 8 FSM R. 484, 500-01 (Pon. 1998).

Actions for trespass shall be commenced within six years after the cause of action accrues. Sipia v. Chuuk, 8 FSM R. 557, 558 (Chk. S. Ct. Tr. 1998).

Actions for the recovery of land or any interest therein must be commenced within twenty years after the cause of action accrues. Hartman v. Chuuk, 9 FSM R. 28, 31 (Chk. S. Ct. App. 1999).

The statute of limitations for an action to collect the balance due on an open account is six years from the accrual date of the cause of action. Mid-Pacific Liquor Distrib. Corp. v. Edmond, 9 FSM R. 75, 78 (Kos. 1999).

A sewer overflow case filed within six years of the first overflow is not barred by the statute of limitations. David v. Bossy, 9 FSM R. 224, 225 (Chk. S. Ct. Tr. 1999).

The two year limitation applies to tort actions for both negligence and wilful conduct. David v. Bossy, 9 FSM R. 224, 225 (Chk. S. Ct. Tr. 1999).

An action for damages for loss of land is subject to a six-year statute of limitations. Jonah v. Kosrae, 9 FSM R. 335, 343 (Kos. S. Ct. Tr. 2000).

Breach of contract claims against Pohnpei state have a two year statute of limitations. E.M. Chen & Assocs. (FSM), Inc. v. Pohnpei Port Auth., 9 FSM R. 551, 557 (Pon. 2000).

Without a separate statute of limitations in the act creating a public corporation, the state

legislature obviously intended for suit to be brought against the corporation within the same time period that suit must be brought against the state and its various related entities even though the corporation may act on its own and sue and be sued in its own name. E.M. Chen & Assocs. (FSM), Inc. v. Pohnpei Port Auth., 9 FSM R. 551, 558 (Pon. 2000).

An action upon a judgment must be commenced within 20 years after the cause of action accrued. Walter v. Chuuk, 10 FSM R. 312, 316 (Chk. 2001).

The twenty year statute of limitation does not apply to claims against the Land Commission for violation of due process, violation of statute and for failure to apply an earlier judgment as they are not claims for the recovery of land. These claims are subject to a limitations period of six years and are barred by the statute of limitations and will be dismissed when the Land Commission actions all occurred more than six years ago. Sigrah v. Kosrae State Land Comm'n, 11 FSM R. 169, 175 (Kos. S. Ct. Tr. 2002).

6 TTC 305 establishes a period of 6 years in which to bring an action for negligent damage to real property. Ben v. Chuuk, 11 FSM R. 649, 650 (Chk. S. Ct. Tr. 2003).

The creation of laws relating to contracts is not identified in the Constitution as falling within the national government's powers. Rather, it is generally presumed to be a power of the state. Accordingly, state law determines the statute of limitations in a contract case. Youngstrom v. NIH Corp., 12 FSM R. 75, 77 (Pon. 2003).

Pohnpei state law specifies limitation periods of two and twenty years for certain delineated causes of action and provides that all other actions – including contracts – must be commenced within six years after the cause of action accrues. Youngstrom v. NIH Corp., 12 FSM R. 75, 77 (Pon. 2003).

A claim to land clearly could not be renewed when the statute of limitations on an action to recover land or an interest therein is twenty years and more than twenty years have passed since the Certificate of Title in another's favor was issued and since the court decision affirming ownership. Any subsequent attempt to litigate the land's ownership is barred by the statute of limitations. Hartman v. Chuuk, 12 FSM R. 388, 400 (Chk. S. Ct. Tr. 2004).

When no applicable limitations period is specified in the national statute under which a plaintiff has proceeded, the court will apply the most closely analogous state law limitations period so long as doing so does not frustrate or interfere with national policy. AHPW, Inc. v. FSM, 12 FSM R. 544, 553 (Pon. 2004).

When a determination of ownership by the Land Commission is subject to appeal to the Court within 120 days from the date of receipt of notice of the determination and when it is alleged that the plaintiff never received notice of the determination of ownership, accepting the alleged facts as true, then the appeal time limit of 120 days never began to run. Skilling v. Kosrae State Land Comm'n, 13 FSM R. 16, 19 (Kos. S. Ct. Tr. 2004).

Claims against the Land Commission for violation of statute and violation of due process are subject to a limitations period of six years. When claims against the Land Commission based upon Land Commission actions which took place in 1984 and before occurred more than six years ago, they are barred by the statute of limitations and should be dismissed. Skilling v. Kosrae State Land Comm'n, 13 FSM R. 16, 19 (Kos. S. Ct. Tr. 2004).

A complaint against the Land Commission does not assert a claim for the recovery of land or recovery of an interest in land against the defendants, as the defendants have not been granted ownership of the land. Therefore the twenty year statute of limitations for recovery of an interest in land does not apply to claims against the Land Commission for violation of due process and violation of statute. These claims are subject to a limitations period of six years. Skilling v. Kosrae State Land Comm'n, 13 FSM R. 16, 19 (Kos. S. Ct. Tr. 2004).

A Land Commission determination of ownership is subject to appeal to the Kosrae State Court within 120 days from the date of receipt of notice of the determination. If the determination was not received, then the appeal time limit of 120 days never began to run. Kinere v. Kosrae Land Comm'n, 13 FSM R. 78, 80 (Kos. S. Ct. Tr. 2004).

Kosrae State Code, Title 6, Chapter 25 establishes three different statutes of limitations which are applicable to specific types of actions: 2 years, 6 years, and 20 years. Most types of actions are subject to the 6 year statute of limitations established by Kosrae State Code § 6.2506. All actions in Kosrae State Court must be commenced within the time period stated in Title 6, Chapter 25. Kinere v. Kosrae Land Comm'n, 13 FSM R. 78, 80 (Kos. S. Ct. Tr. 2004).

The six-year statute of limitations applies and the twenty year statute of limitations for the recovery of an interest in land does not when no interest in land is at issue because the land title case is pending in state court, and since the real property mortgage has never been enforced, no foreclosure proceedings have ever taken place. Rudolph v. Louis Family, Inc., 13 FSM R. 118, 127 (Chk. 2005).

Tort claims, tax claims, contract claims, breach of fundamental rights, claims for damages, injunctive relief or writ of mandamus arising from the alleged unconstitutionality or improper administration of Pohnpei statutes or regulations, any other civil action or claim against the state founded upon any law or any regulation, or upon any express or implied contract with the Pohnpei government or for liquidated or unliquidated damages in cases not sounding in tort, and actions for collection of judgments based on claims allowed against the State of Pohnpei can be sued upon within two years of the date on which they accrue. Mobil Oil Micronesia, Inc. v. Pohnpei Port Auth., 13 FSM R. 223, 226-27 (Pon. 2005).

Since, by its own terms, the Pohnpei Government Liability Act statute of limitations is applicable only to those claims identified in Section 4 of that Act, which identifies a number of different claims, including claims based on violation of Pohnpei state law such as the Pohnpei Constitution, but does not expressly identify claims that are based upon national law or the National Constitution, the plaintiff's claim for declaratory judgment based on violation of the National Constitution and its claim for damages for civil rights violations under 11 F.S.M.C. 701(3) are not subject to the Act's statute of limitations and will not be dismissed on the ground that they are time barred by that statute of limitations. Mobil Oil Micronesia, Inc. v. Pohnpei Port Auth., 13 FSM R. 223, 227-28 (Pon. 2005).

The statute of limitations on contract or unpaid wage claims is six years. Zion v. Nakayama, 13 FSM R. 310, 314 (Chk. 2005).

A six years' statute of limitations applies to all claims to which neither the specific twenty-year, or two-year statutes, apply. Claims against the Land Commission for violation of due process, as they are not claims for the recovery of land (twenty-year statute of limitation), are

subject to a six-year limitations period and are barred and will be dismissed when the Land Commission actions are all over six years old since a complaint against the Land Commission cannot assert a claim for the recovery of an interest in land against the defendant Land Commission because it does not own any interest in the land at issue. Dereas v. Eas, 14 FSM R. 446, 456 n.5 (Chk. S. Ct. Tr. 2006).

The statute of limitations bars a claim to an interest in land if the cause of action arose more than twenty years before the action is brought – if the claim could have been made over twenty years before it was actually made, then the action can no longer be maintained, no matter how meritorious the claim. Dereas v. Eas, 14 FSM R. 446, 456 (Chk. S. Ct. Tr. 2006).

The statute of limitations for an action by a decedent's estate does not apply when the plaintiff is not alleging that she represents the estate, but alleges that she is an insurance policy beneficiary. John v. Chuuk Public Utility Corp., 15 FSM R. 169, 171 (Chk. 2007).

When the plaintiff alleges that she is the third-party beneficiary of an insurance contract, the six-year statute of limitations for breach of contract generally applies. John v. Chuuk Public Utility Corp., 15 FSM R. 169, 171 (Chk. 2007).

The statute of limitations for an action on an open account is six years and when the testimony at trial shows transactions on the open account within the six-year statutory period a motion to dismiss on statute of limitations will be denied. George v. George, 15 FSM R. 270, 273 (Kos. S. Ct. Tr. 2007).

A claim for negligence against the Land Commission and its government employee has a six-year statute of limitations. When, if there was any negligence, the cause of action accrued at the time the certificate of title was issued in 1997 and more than six years have passed, the plaintiff's claim of negligence against the Land Commission and its employee fails. Andon v. Shrew, 15 FSM R. 315, 320 (Kos. S. Ct. Tr. 2007).

For claims relating to ownership of land, the twenty-year statute of limitations found in Kosrae Code section 6.2503 would apply. Andon v. Shrew, 15 FSM R. 315, 321 (Kos. S. Ct. Tr. 2007).

The two-year statute of limitations applies to causes of action for slander. Jano v. Fujita, 15 FSM R. 405, 408 (Pon. 2007).

Because the causes of action for libel and interference with contract and prospective economic advantage are not covered in sections 801 to 804 of title 6, the six-year limitation period set forth in section 805 of Title 6 applies to those causes of action. Jano v. Fujita, 15 FSM R. 405, 408 (Pon. 2007).

State law, and not the national law, provides the controlling limitations period for the causes of action, such as libel and slander and the tort of interference with contract and prospective economic advantage, that arise under state law. Jano v. Fujita, 15 FSM R. 494, 496 (Pon. 2008).

The two-year statute of limitations applies to causes of action for libel. Jano v. Fujita, 15 FSM R. 494, 497 (Pon. 2008).

A cause of action for interference with contract and prospective economic advantage must be commenced within six years after the cause of action accrues. Jano v. Fujita, 15 FSM R. 494, 497 (Pon. 2008).

Kosrae State Code § 6.2506 provides that any action not governed by the limitations of actions stated in other sections is governed by a six-year statute of limitations. Allen v. Allen, 15 FSM R. 613, 619 (Kos. S. Ct. Tr. 2008).

Claims against the Land Commission for negligence, violation of due process and failing to apply statutes are actions against the government which fall within the limitations period of six years. Allen v. Allen, 15 FSM R. 613, 619 (Kos. S. Ct. Tr. 2008).

The twenty-year statute of limitations under Kosrae State Code § 6.2503 covers actions for the recovery of land or an interest in land and the time period begins when the cause of action accrues. Allen v. Allen, 15 FSM R. 613, 620 (Kos. S. Ct. Tr. 2008).

A conflict of interest claim is that the determination of ownership must be set aside because one of the team members, later became a Land Commission member and was one of the concurring commissioners on the parcel's determination is a claim against the government is an action covered by Kosrae State Code § 6.2601 and falls within the six-year statute of limitations. Allen v. Allen, 15 FSM R. 613, 621 (Kos. S. Ct. Tr. 2008).

The statutory limitation period on the breach of contract claim for an unpaid bank loan is six years after the cause of action accrues since a breach of contract cause of action, or an unpaid bank loan, is not covered in the specific limitations periods set forth in FSM Code, Title 6, sections 801 to 804. FSM Dev. Bank v. Chuuk Fresh Tuna, Inc., 16 FSM R. 335, 338 (Chk. 2009).

The court will not apply the three-year statute of limitations found in the Uniform Commercial Code without a showing that this statute of limitations has been enacted into law in this jurisdiction. The court is at a loss as to what authority would permit it to do this. It cannot legislate. Individual Assurance Co. v. Iriarte, 16 FSM R. 423, 445 (Pon. 2009).

Under Kosrae law, a six-year statute of limitation applies to all civil suits not covered by the twenty-year statute of limitation (actions on a judgment or for recovery of land or an interest in land) or by the two-year statutes of limitation (actions for assault and battery, false imprisonment, defamation, against the police for wrongful acts or omissions, medical malpractice, injury or death caused by wrongful act, by a depositor against a bank for a forged or altered check, and wrongful death or an action by or against an estate). Allen v. Allen, 17 FSM R. 35, 39 (App. 2010).

When the plaintiff's causes of action arose or accrued in 1986 since, assuming he proved his case, he could have sued successfully for the recovery of the land then, and since no fraud is alleged or apparent, the plaintiff had twenty years within which to seek recovery of the land. Since that time period expired in 2006, the plaintiff's February 2007 complaint is thus time-barred. Allen v. Allen, 17 FSM R. 35, 40-41 (App. 2010).

When a statute of limitations provides a two-year limitation period for actions for injury to one caused by the wrongful act or neglect of another, the applicable statute of limitations for a

negligent infliction of emotional distress claim is two years negligent infliction of emotional distress requires a physical injury or manifestation. Nakamura v. FSM Telecomm. Corp., 17 FSM R. 41, 48 (Chk. 2010).

When a two-year limitations period applies to injuries caused by the wrongful act or neglect of another, it applies to intentional infliction of emotional distress because intentional infliction of emotional distress is caused by a wrongful act – conduct that is extreme and outrageous. Nakamura v. FSM Telecomm. Corp., 17 FSM R. 41, 48 (Chk. 2010).

An emotional distress claim, whether inflicted intentionally or negligently, is barred by the two-year statute of limitations. Nakamura v. FSM Telecomm. Corp., 17 FSM R. 41, 48 (Chk. 2010).

The applicable limitations period for a wrongful termination suit against the State of Chuuk is six years (subject to statutory tolling provisions). Dungawin v. Simina, 17 FSM R. 51, 54 (Chk. 2010).

If Pohnpei had managed to breach contracts – the 1993 loan agreement and the guaranty – that it had never been a party to, it would have had to have done it well before 1999 when the plaintiff filed suit. In which case, the statute of limitations on that claim expired long before this action was filed in 2010 since, under Pohnpei state law, the limitations period on contract actions against the State of Pohnpei is two years. AHPW, Inc. v. Pohnpei, 18 FSM R. 1, 9 (Pon. 2011).

Tort actions against Pohnpei are subject to a two-year limitations period. AHPW, Inc. v. Pohnpei, 18 FSM R. 1, 9 n.4 (Pon. 2011).

A breach of contract counterclaim by loan guarantors against the bank would have a six-year limitation period. But, as that would have been a Civil Rule 13(a) compulsory counterclaim, the guarantors had to raise it in their earlier lawsuit or that claim was waived. AHPW, Inc. v. Pohnpei, 18 FSM R. 1, 9 (Pon. 2011).

The statute of limitation is 20 years for causes of action that impact land as such. Sorech v. FSM Dev. Bank, 18 FSM R. 151, 157 (Pon. 2012).

When no applicable limitations period is specified in the national statute under which the plaintiff has proceeded, the court will apply the most closely analogous state law limitations period so long as doing so does not frustrate or interfere with national policy. Tarauo v. Arsenal, 18 FSM R. 270, 272-73 (Chk. 2012).

The applicable limitations period for a civil rights action based on mistreatment at Chuuk State Hospital would be two years since that is the limitations period for errors committed by medical practitioners employed by the state and for personal injury actions against the state. Tarauo v. Arsenal, 18 FSM R. 270, 273 (Chk. 2012).

Borrowing a foreign statute of limitations that bars judicial relief has no basis in law when the claim arose from acts on Pohnpei and Pohnpei state law sets a limitation period. Iriarte v. Individual Assurance Co., 18 FSM R. 340, 354 (App. 2012).

When a breach of contract cause of action arose on Pohnpei, Pohnpei's statute of limitations should be used. Iriarte v. Individual Assurance Co., 18 FSM R. 340, 354 (App. 2012).

The two-year limitation period for a depositor's action against a bank or similar institution for the payment of a forged or raised check which bears a forged or unauthorized endorsement does not apply when the defendant is a retail (and wholesale) store and not a bank or a similar financial institution and the plaintiff is not a "depositor" in the defendant "institution." Iriarte v. Individual Assurance Co., 18 FSM R. 340, 362 (App. 2012).

The limitations period for many types of civil rights lawsuits against Chuuk is two years, but for back pay claims it is six years. Aunu v. Chuuk, 18 FSM R. 467, 469 (Chk. 2012).

The applicable statute of limitations for a salvage contract bars any recovery after the two-year period statutory period. Adams Bros. Corp. v. SS Thorfinn, 19 FSM R. 1, 11 (Pon. 2013).

The two-year statute of limitations in 19 F.S.M.C. 928 applies only to salvage contracts and does not apply to a contract between a salvor and the insurer that is not a salvage contract but is instead a contract of guaranty or a surety or to answer for the liability of another and which may be subject to the six-year statute of limitations for contracts in general. Adams Bros. Corp. v. SS Thorfinn, 19 FSM R. 1, 11 (Pon. 2013).

The applicable statute of limitation period for an installment contract is six years. Bank of Hawaii v. Susaia, 19 FSM R. 66, 70 (Pon. 2013).

The statute of limitations period for a breach of contract claim against the State of Chuuk is six years. Eot Municipality v. Elimo, 19 FSM R. 290, 294 (Chk. 2014).

The timeframe in which to appeal a decision of the FSMSSA Board is governed by 53 F.S.M.C. 708, which provides that any person aggrieved by a final order of the Board may obtain a review of the order in the FSM Supreme Court trial division by filing in court, within 60 days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part. Palikkun v. FSM Social Sec. Admin., 19 FSM R. 314, 316 (Kos. 2014).

Conversion has a six-year statute of limitations. FSM v. Muty, 19 FSM R. 453, 460 (Chk. 2014).

Adverse possession is a doctrine under which one can acquire ownership of land if that individual, absent the owner's permission, uses the land openly, notoriously, exclusively, continuously and under claim of right, coupled with a requirement that the owner does not challenge such action until after the statute of limitation has run. The applicable statute of limitation period for adverse possession is twenty years. Tilfas v. Heirs of Lonno, 21 FSM R. 51, 58 (App. 2016).

When, using any of the three ways to analyze an action's nature for statute of limitations purposes, it could not be plainer that the action is one to recover an interest in land, the twenty-year statute of limitations to recover land or an interest in land applies. Heirs of Preston v. Heirs of Alokoa, 21 FSM R. 572, 580 (App. 2018).

As a matter of policy, if there is a substantial question or reasonable dispute as to which of two or more statutes of limitation within the jurisdiction should be applied, the doubt should be

resolved in favor of the application of the statute containing the longest limitation period. Heirs of Preston v. Heirs of Alokoa, 21 FSM R. 572, 580 n.2 (App. 2018).

When the type of interest allegedly harmed is land ownership; when the right that the plaintiffs sue upon is their right to own a certain land parcel; when the remedy sought is to recover registered title to that land parcel that the plaintiffs contend that was lost through the defendants' predecessor's wrongful act; and when the primary interest that the alleged wrongdoer invaded was the plaintiffs' predecessor's registered ownership of that parcel, the action is one for the recovery of title to land. The theory of recovery might be fraud, or due process violation, or negligence, or some other theory such as reformation of contract, but that theory does not change the action's nature for statute of limitations purposes. Heirs of Preston v. Heirs of Alokoa, 21 FSM R. 572, 580 (App. 2018).

To determine which statute of limitation to apply, a court must look to the nature of the case. There are three ways to determine a case's nature for statute of limitations purposes: 1) the type of interest allegedly harmed, or 2) the right sued upon, or 3) the remedy sought, rather than the theory of recovery. What is significant for statute of limitations purposes is the primary interest that was invaded by the defendant's wrongful conduct. Alik v. Heirs of Alik, 21 FSM R. 606, 621 (App. 2018).

When, under any of the three ways to analyze an action's nature for limitations purposes, it could not be plainer that the case can only be an action to recover an interest in land, the twenty-year statute of limitations to recover land or an interest in land applies. Alik v. Heirs of Alik, 21 FSM R. 606, 621 (App. 2018).

When the type of interest allegedly harmed is land ownership; when the remedy that the plaintiffs seek is to recover ownership of, and title to, a parcel, which they contend they lost through another's wrongful acts; and, when the primary interest that the other allegedly invaded, by his alleged wrongful conduct, was his siblings' right to joint registered ownership, good against the world, of the parcel, the action's nature, for statute of limitations purposes, as one to recover interests in land and that does not change because the theory of recovery might be fraud, or due process violation, or negligence, or some other theory. Alik v. Heirs of Alik, 21 FSM R. 606, 621 (App. 2018).

As a matter of policy, if there is a substantial question or reasonable dispute about which of two or more statutes of limitation within the jurisdiction should be applied, the doubt should be resolved in favor of the application of the statute containing the longest limitation period. Alik v. Heirs of Alik, 21 FSM R. 606, 622 (App. 2018).

When most of the plaintiffs' claims are for events that occurred in 2001, 2003, or 2004, and when none of the claims are for the recovery of an interest in land or are an action on a judgment, which are the only causes of action for which the statute of limitations is twenty years, then the statute of limitations for the plaintiffs' claims cannot exceed the six years of the catchall statute, which claims are thus barred by the statute of limitations. Helgenberger v. Ramp & Mida Law Firm, 22 FSM R. 4, 12 (Pon. 2018).

Any action by or against the executor, administrator, or other representative of a deceased person for a cause of action in favor of, or against, the deceased shall be brought only within two years after the executor, administrator, or other representative is appointed or first takes possession of the assets of the deceased. Panuelo v. Sigrah, 22 FSM R. 341, 358 (Pon. 2019).

A "personal injury" is any harm caused to a person, such as a broken bone, a cut, or a bruise; bodily injury or any invasion of a personal right, including mental suffering and false imprisonment. This does not describe claimed damages that are all monetary losses. Panuelo v. Sigrah, 22 FSM R. 341, 358 n.8 (Pon. 2019).

It seems likely that the six-year, catch-all statute of limitations would apply to purely monetary damages. Panuelo v. Sigrah, 22 FSM R. 341, 358 & n.8 (Pon. 2019).

For an independent action for relief, no statute of limitations would apply because there is no time limit on when an independent action may be brought, but the doctrine of laches is applicable and undue delay can bar relief. Panuelo v. Sigrah, 22 FSM R. 341, 358 (Pon. 2019).

FSM statutory law recognizes the existence of an action on a judgment because it provides a time limit – 20 years – within which one must be brought. FSM Dev. Bank v. Carl, 22 FSM R. 365, 371 (Pon. 2019).

An action may be maintained up to twenty years after the date of entry of the judgment. FSM Dev. Bank v. Carl, 22 FSM R. 365, 371 (Pon. 2019).

The statutory limitation period for an unpaid bank loan is, under 6 F.S.M.C. 805, six years after the cause of action accrues since unpaid loans are not covered in the specific limitations periods set forth in Sections 801 to 804. Pacific Islands Dev. Bank v. Sigrah, 22 FSM R. 600, 606 (Pon. 2020).