

**FILED**

DATE 01-28-99

BY JHO  
CLERK, FSM SUPREME COURT

IN THE SUPREME COURT OF THE  
FEDERATED STATES OF MICRONESIA  
TRIAL DIVISION - STATE OF POHNPEI

**POHNPEI**  
TRIAL DIVISION

STATE OF CHUUK, STATE OF )  
KOSRAE, STATE OF POHNPEI, and )  
STATE OF YAP, )

Plaintiffs, )

v. )

SECRETARY OF DEPARTMENT OF )  
FINANCE OF THE FEDERATED )  
STATES OF MICRONESIA, and )  
THE FEDERATED STATES OF )  
MICRONESIA, )

Defendants. )

CIVIL ACTION NO. 1995-085

ORDER GRANTING DEFENDANTS'  
MOTION FOR PROTECTIVE ORDER

This matter comes before the Court on defendants'  
Motion for Protective Order.

On July 17, 1998, the Court granted defendants' Motion  
for Summary Judgment and dismissed plaintiffs' Complaint with  
prejudice. On July 27, 1998, plaintiffs' filed a Motion to Alter  
or Amend Judgment pursuant to Rule 59(e) of the FSM Rules of  
Civil Procedure. On August 24, 1998, plaintiffs' filed a Motion  
for Relief from Judgment pursuant to Rule 60 of the FSM Rules of  
Civil Procedure. On August 25, 1998, plaintiffs' filed a Notice  
of Appeal. On December 2, 1998, this Court set oral argument on  
plaintiffs' Motion to Alter or Amend Judgment and plaintiffs'  
Motion for Relief from Judgment for Tuesday, February 2, 1999, at  
10:00 a.m., at the National Judicial Building in Palikir,  
Pohnpei.

On January 22, 1999, plaintiffs filed a Notice of

Deposition of Bernard Thoulag, scheduling said deposition for January 29, 1999, at 3:00 p.m. at the FSM Supreme Court. On January 27, 1999, defendants' filed a Motion for Protective Order, asking that all discovery be suspended until resolution of the pending Motions.

Rule 26(c) of the FSM Rules of Civil Procedure provides that upon Motion of a party, and for good cause shown, the Court may make any order which justice requires to protect that party from annoyance, embarrassment, oppression, or undue burden and expense. Defendants have shown good cause to suspended all discovery until resolution of the pending Motions. The noticed deposition comes more than 16 months after the discovery cutoff, and only seven days prior to the hearing on plaintiffs' Motions. Defendants will suffer undue burden and expense if forced to re-open discovery, and prepare for and attend the deposition at this late date.

More importantly, plaintiffs' deposition notice was issued post-judgment and pending appeal. Rule 27(b) of the FSM Rules of Civil Procedure provides that a party wishing to take a deposition pending appeal must file a Motion seeking leave from the Court to do so. Plaintiffs have not filed a Motion with the Court, or otherwise sought leave to take Bernard Thoulag's deposition.

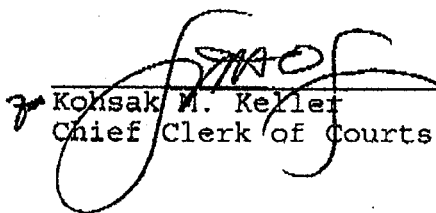
Defendants' Motion for Protective Order is hereby GRANTED. All discovery by either party shall be suspended until resolution of the pending Motions.

So ordered the 28<sup>th</sup> day of January, 1999.



Andon L. Amaraich  
Presiding Justice

Entered this 28<sup>th</sup> day of January, 1999.

  
Kolsak M. Keller  
Chief Clerk of Courts