



# NEWSLETTER

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## Seal of the Supreme Court of the FSM

- The seal above represents many things of the ways of the Micronesian people. The "V" sign in the center of it is a star point: which signifies "star path navigators - a traditional and contemporary symbol common to all four FSM Island States; and, it also represents a mountain; and ocean waves.

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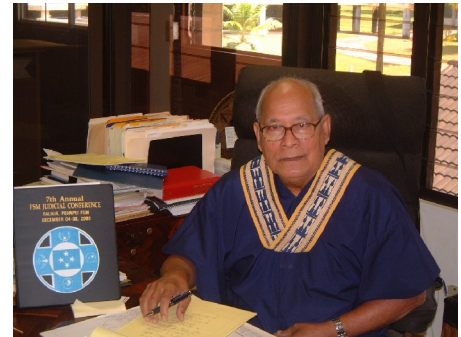
## Message from the Chief Justice

I am pleased to announce the launching of the FSM Supreme Court's first ever published newsletter. I join the staffs of the FSM Supreme Court in our hope that you will find the information in this newsletter both interesting and informative as we attempt to keep you updated on some of the Court's recent events and activities.

It is intended that through this and future issues, we will try to keep the public abreast of the activities and functions of the court systems. Not only that we want to keep you well informed but also to promote the understanding of how the courts improve their staffs and justices through trainings and conferences. These newsletters can also be utilized as resourceful tools for the young ones especially those who are planning to pursue careers in the legal fields.

We will be more than happy to hear any suggestions or comments from you for the improvement of future articles.

So, enjoy your time as you gaze through these articles.



Chief Justice Andon L. Amaraich

## Micronesian Voices in Hawaii

As Chairman of the Commission that negotiated the first Compact of Free Association between the FSM and the United States, Chief Justice Amaraich attended a two-day conference in Hawaii from April 3-4, 2008 at the University of Hawai-Manoa. The conference entitled "Micronesian Voices in Hawaii" was sponsored by the Center for Pacific Island Studies at the University. All the speakers, panelists and moderators were Micronesians. Chairman Amaraich's presentation was on the subject of Compact Negotiations, Expectations and Hopes.

(See Micronesian Voices p. 4)

## FSM National Law Day; National Debates

The FSM National Law Day is one of the court's annually sponsored programs that features high school students representing their states of Chuuk, Kosrae, Pohnpei and Yap in debates on issues of national significance. The purpose of the Law Day when it was first organized and held in 1991 was to celebrate the Court's Anniversary and to involve high school students and the general public in discussion of issues important to

the Federated States of Micronesia as a developing nation. This year marks the 27th anniversary of the FSM Supreme Court.

The FSM National Lay Day has become an important activity of the court. Since its inception on July 12, 1991, 120 high school students from the four FSM States have participated in the event, and more than \$120,000 in scholarship funds have been issued. For the past seventeen years,

the Federated States of Micronesia, through the Supreme Court, had been providing the opportunity to high school students to participate in the development of our nation through debates on issues important to the FSM, and the same opportunity to the general public to be involved in these discussions as well.

This year's topic is "be it (see Law Day on Page 4)

## 3rd Annual PJC Court Administrators Conference



3rd Annual PJC Conference participants

The 3rd Annual Pacific Judicial Council's Court Administrators Conference was held March 4-7, 2008 at the Pacific Missionary Aviation Auditorium in Kolonia, Pohnpei. The con-

ference was an annual conference of the PJC member jurisdictions which brings together court administrators and supervisory level employees of the Pacific Islands Courts. The participants of the conference included American Samoa, the Commonwealth of the Northern Mariana Islands, the Island of Guam, the FSM, the FSM States, Republic of the Marshall Islands and the Republic of Palau. The con-

ference theme was "building effective and efficient court systems through continuing education and regional collaboration." The topics discussed were improving case flow fundamentals; leadership and implementing change; being creative; emergency preparedness and response; and ethics in the courts. The conference was coordinated by the staff of the FSM Supreme Court and the Pacific Islands Committee of the U.S. Ninth Circuit Court of Appeals in collaboration with Guam Judiciaries and other member Pacific Judiciaries. The Chairman of the Pacific Islands Committee of the U.S. Ninth Circuit Court of Appeals, Chief Judge Conzuelo Marshall, was in charge of the

(see PJC Conference on p.6)

## FSM Bar's New Members Admitted

The Supreme Court of the Federated States of Micronesia in a special proceeding admitted Ms. Pole Atanraoi, Ms. Lori J. Williams, Ms. Melissa Ann Dineen, and Mr. Kasio K. Mida, Jr., a F.S. M. citizen, to the FSM Bar on May 13, 2008 at 10:00 a.m. Chief Justice Andon L. Amaraich and Associate Justice Dennis K. Yamase presided over the special proceeding. The four Attorneys named above recently passed

the FSM Written Bar Examination administered in Pohnpei on March 6, 2008. Ms. Marstella Jack, Attorney-At-Law represented Ms. Atanraoi and Ms. Williams; Mr. Craig Reffner, FSM Supreme Court's general counsel,

represented Ms. Dineen; and Mr. Johnson Asher, Assistant Attorney General of the FSM Department of Justice, represented Mr. Mida, Jr. Also admitted the same time in Yap was Mr. William Martin. Associate Justice Martin G. Yinug presided over the proceeding.

(Story continue on p. 4)



## The Appellate Division

The Appellate Panel comprising Associate Justice Martin G. Yinug, Associate Justice Dennis K. Yamase and Associate Justice Ready E. Johnny of the Supreme Court of the FSM convened in Kosrae on March 25-26, 2008 to hear oral arguments in Appeal Case Nos. K8-2006; K1-2007; K4-2006; K5-2006; and K3-2007. The Associate Justices returned to Pohnpei for the last appeal scheduled for the month in

Pohnpei for Appeal Case No. P2-2007. The Appellate Court issued its written decisions on the Kosrae and Pohnpei appeal cases shortly after hearing the oral arguments. The next Appellate sitting was scheduled for May 14, 2008 in Yap in Appeal Case No. Y2-2006. The Justices that comprised the appellate panel in that appeal were Associate Justices Dennis K. Yamase, Ready E. Johnny and Temporary Justice Alikxa B. Alikxa.

The next appellate court sitting will be in September when the appellate panel will comprise of Chief Justice Andon L. Amaraich, Associate Justice Martin G. Yinug and Associate Justice Ready E. Johnny in the State of Chuuk. The appeal cases scheduled for oral arguments are Appeal Case Nos. C1-2008, C1-2005 and C3-2007.

# The National Close-Up Local Program

The National Close-Up Local Program students visited the court on May 28, 2008 at 12:00 noon. The program is a program the FSM Department of Education organizes each year which brings together high school students from all over the FSM States of Chuuk, Kosrae, Pohnpei and Yap. These students were accompanied to the court by Mr. Wayne Mendiola, FSM Department of Education's Post Secondary Educa-



Chief Justice Amaraich and Close-Up students visitors

tion Coordinator, other staff of the department and the students' chaperones. The purpose of their visit to the court was to learn something about the role, functions and the responsibilities of the court as the highest court of the Federated States of Micronesia. In addition to the presentation made to the students by Ben Weber on the role, functions and the responsibilities of the court, the students were also briefed on the

FSM National Law Day which the court organizes and sponsors on an annual basis. In his remarks, Chief Justice Amaraich told the students that when it was first created, the close-up program was seen as an opportunity for students to come close-up with their government officials in order to understand what it is they do for them. He told them that they are the future leaders of the government, and, as such, they should keep in mind they will be replacing employees in the government workforce as they develop themselves for the future.

# COM-FSM's Trial Counselor Certificate Program students

A group of COM-FSM students and staff of the college visited the court in May this year. These students were enrolled in the Trial Counselor Certificate Program offered at the college. The students were Stanley Michael, Kennedy Nedlic, Tipson Sisra, Jerome Jacob, Mavrick Helgenberger and Julio Raymond. The course that would be offered this summer is Criminal Procedure. Criminal Law, Civil and Appellate Procedure, Real Property and Trial Advocacy would be offered in the fall. Chief Justice Amaraich thanked the

COM-FSM personnel for their role in the program and expressed his hope for a greater participation by all adding "the legal, judicial professions were very important to the development of the FSM people and the government now and in the future." He encouraged the students to work hard because "you have a place in the society and your participation in the program will assist in making better use of what we have." The students were very enthusiastic as they told Chief Justice and others present they found the Trial Counselor Certificate Program courses challenging and would continue to take the classes required for a certificate.



Back row: Stanley Michael, Kennedy Nedlic, Tipson Sisra, CJ Amaraich, Jerome Jacob, Mavrick Helgenberger, & Julio Raymond.—Front row: Jean Thoulag, Mariana Ben-Dereus, Detihna Ehmeh and Ben Weber in the far corner.

## Personnel

On January 10, 2008, Chief Justice Amaraich administered the oath of office to Ms. Lorina Pernet and Ms. Joyleen Wichep. Ms. Pernet recently joined the court as Chief Justice's secretary after working at the executive branch as secretary to the Vice President of the FSM. Ms. Wichep formerly employed by the executive branch of the FSM government in the office of SBOC..

The Supreme Court of the FSM hired Mr. Belan Yoma on June 5, 2008 as the new State Justice Ombudsman for Pohnpei. Belan holds a Bachelor of

Arts degree in Administration of Justice from the University of Hawaii-Hilo. He also holds an Associate of Arts degree from COM-FSM. Belan joined the court after working at the Talent Search Program at COM-FSM as Administrative Specialist. Yoma began work on June 23, 2008.



Belan Yoma



From left: J. Wichep, CJ Amaraich; L. Pernet

**LAW DAY** (continued from p.1)

*resolved that the economic development in the FSM must take priority over the environmental concerns and responsibilities.*" Each year, the court pays to send the student debaters to the venue of the debates and provides scholarship money for their post-secondary education to attend colleges and universities of their choice including the College of Micronesia-FSM. The court recognized the governments, bar members, private organizations and individuals for their contributions to the annual scholarship fund. The scholarship money is given to the student debaters upon their submission of letters of acceptance to the colleges or universities of their choice to the court.

The venue for the 2008 FSM National Law Day is Kosrae State. The ceremonies and debates will be broadcast live throughout the Federated States of Micronesia on Friday, July 11, 2008 starting at 9:00 a.m. at the Kosrae State Atrium in Tofol.

**Micronesian Voices** (continued from p.1)

Part of his one-hour presentation concentrated on the provisions of the Compact which provided for the free movement of Micronesians into the United States. He stressed that the FSM Negotiating Commission's interest in agreeing to the provisions was to utilize the privilege as a tool to promote "Micronesian long term economic advancement." We saw it as an opportunity for our citizens to acquire education, training and skills, Amaraich said, adding that during the sixteen years of Compact Negotiations, the idea of removing all barriers to the free movement of Micronesians into the United States was never opposed by any of the negotiating parties. Another thing needs to be made clear, "we did not see it as a way to qualify for U.S. citizenship. It was and remains today our desire to keep our citizens, and together to make Micronesians something we all can take pride in."

During his presentation, Chairman Amaraich made reference to information that indicate that FSM citizens residing in the United States are sending money back to their families, estimated to be between \$10 and \$20 million dollars annually, an amount that was never expected then, but which in many ways contributing to the economy. He stressed that

the FSM and the United States shared a common goal, namely a long-term and close relationship. Therefore, open access to the United States is a natural component of the agreement.

Former Negotiator Amaraich reflected on the movement that has taken place since the original compact negotiations and how this has exceeded what was envisioned at the time of the compact negotiation. He cited education as a primary goal of Islanders seeking unrestricted access to the United States. Chairman Amaraich was assisted by Mr. James Naich, Charge d'Affaires, James Stoval, Legal Counsel of the FSM Embassy in Washington, D.C; and Daniel Rescue, Acting General Counsel of the FSM Consulate in Honolulu. The other speakers on April 3-4 were Dr. Hilda Heine, Director of the Pacific Resource for Education and Learning (PREL) and Ambassador Graham, Marshall Islands Ambassador to the United States. Ambassador Graham and Dr. Heine spoke on the subject of Micronesian migration, specifically from the Federated States of Micronesia (FSM) and the Republic of the Marshall Islands (RMI). Dr. Heine outlined some of the challenges for migrants in Hawaii, in the areas of education, language access, affordable housing, employment and health.

**Students' visits**

Frank Hadley, Jr., who met Chief Justice Amaraich in August 2007 at a youth conference at the Church of Latter Day Saints in Sokehs, visited the court in March this year. Frank was a senior at the Seventh Day Adventist school in Pohnpei. He planned to attend Brigham Young University in Hawaii after high school. Frank expressed to Chief Justice his interest in the legal profession and he hoped to become a judge someday. Frank is the son of Mr. and Mrs. Frank

Hadley, Sr. Chief Justice Amaraich gave a brief overview of the rules of admissions to the FSM Bar adding that FSM citizen lawyers are needed in the FSM.

**FSM Bar's New Members**

(continued from page 2)

Ms. Atanraoi received her Law Degree from Papua New Guinea Law School. She became the first female attorney admitted to the Kiribati bar. Prior to coming to the FSM, Ms. Atanraoi worked for the Attorney General's Office in Kiribati and the UNDP resource team project that facilitated training of legal professionals. She has extensive background in criminal litigation. Ms. Williams received her JD from Howard University School of Law and her LLM degree in law from the Capitol University in Columbus, Ohio. She worked as Assistant State Attorney in both the United States and the U.S.

Virgin Islands. Ms. Williams taught business law and criminal justice classes in college while managing a private law practice. Ms. Melissa Ann Dineen received her JD from Temple University School of Law. She worked many years at the Philadelphia Public Defender's Office prior to coming to the Federated States of Micronesia. Mr. Casio K. Mida, Jr. graduated from the Thomas M. Cooley Law School in 2005 where he received his JD and, while attending school, he was the editor of the school's law review. He worked a Adjunct Professor at Thomas M. Cooley Law School for one semester before he joined the U.S. Sixth Circuit Court of Appeals as a law clerk of court. Mr. Mida, Jr. spent two years in Florida in private practice before returning to the Federated States of Micronesia. Mr. William Martin is a graduate of the Indiana University School of Law. He is currently Assistant Attorney General of Yap State Government.

## **Seventh Aboriginal and Torres Strait Islander Library, Information and Resource Network (ATSILIRN) Conference** **the Pacific.”**

Mr. Atarino Helieisar, Chief Law Librarian of the FSM Supreme Court attended the Seventh Aboriginal and Torres Strait Islander Library, Information and Resource Network (ATSILIRN) conference held at Charles Darwin University in Australia on April 8-9, 2008. This year's conference theme was "Listen Up! Speak Up! The Conference was co-hosted by ATSILIRN and the Northern Territory Library.



The Aboriginal and Torres Strait Islander Library, Information and Resource Network (ATSILIRN), is a professional support network for Aboriginal and Torres Strait Islander people working in libraries. ATSILIRN was established in 1993.

Helieisar was selected keynote speaker representing the Pacific Islands Association of Libraries, Archives and Museums (PIALA) during the conference where his presentation titled "**Pacific Islands Association of Libraries, Archives and Museum (PIALA) and the Challenges Facing it in**

Helieisar's attendance of the ATSILIRN Conference marked the beginning of an important relationship between the two Library Associations. The Conference participants were from New Zealand, United Kingdom, and different parts of Australia.

### **Library Workshop held**

On May 20, 2008, Atarino Helieisar coordinated a workshop with the PIALA Participants group of the State of Pohnpei held at the College of Micronesia-FSM Learning Resources Center. The aim of the workshop was to disseminate and share information the group learned at the 2007

PIALA Conference in Tinian, Saipan.

Pohnpei School Libraries, COM-FSM Libraries, FSM Congress Library, and Pohnpei Public Library participated.

The topics of the workshop were Disaster and Preparedness; and Book Repair on the island.

## **Level 3 Judicial Educators' Refresher Course**

Kohsak Keller, Chief Clerk of the Supreme Court of the FSM, attended the Level 3 Judicial Educators' Refresher Course in Brisbane, Australia, on May 26-30, 2008. As an accredited educator in the FSM, he was invited to attend the training course by the Pacific Judicial Development Program which also funded his trip to Australia and back to the FSM. The PJDP is funded by Australia and New Zealand.

Keller was certified in 2006 as a train educator by the Pacific Judicial Education Plan (PJEP).

## **Managing Court Financial Resources Training**

Mr. Kapilly Capelle, Director of the Court attended a five-day training in Managing Court Financial Resources Training at the National Center for State Courts/Institute for Court Management (NCSC/UCM).

The training was funded by the FSM Compact II Judicial Training funds controlled and managed by the U.S. Department of the Interior.

The course was offered by the U.S. National Center for State Courts/Institute for Court Management (NCSC/ICM) at its training center in Williamsburg, Virginia. It started on April 21-25, 2008.

The course was a requirement for a program offered by NCSC/ICM called Court Executive Development Program (CEDP) designed for Court Administrators and Directors.

The course focused on exploring the building blocks of financial reporting and budgeting in the current economic climate where courts are forced to compete with other agencies for scarce resources. The courts are finding that the traditional budget negotiation process is not yielding acceptable results as it used to be. Caught between increasing costs and shrinking budget, the Courts have to improve and justify its needs based on case-flow to gain equal footing with their co-equal government partners. FSM is facing similar trends as in the U.S. where Courts have been faced with marginalized funding that have left many courts without basic resources to fulfill their constitutional responsibilities. (see Capelle on p. 6)



**Dir. Kapilly Capelle**

## Capelle

(continued from p.5)

The course design was on the elements of Judicial Branch position in the government budget process in the new millennium; Financial Reporting based on established U.S. accounting principles and standards; Understanding the minds of the funding authorities; Government responsibilities for financing courts; and Budgeting, planning, preparation, internal review, presentation, execution and monitoring-full cycle.

The participants represented the following courts: U.S. Federal Administrative Court in Washington, D.C.; Supreme Court of the FSM; Utah State Supreme Court; Maryland State Supreme Court; Virgin Island Supreme Court; Connecticut State Supreme Court; South Dakota State Supreme Court; Florida State Supreme Court; U.S. Sixth District Court; California State Superior Court—Central District; and Indiana State Supreme Court. The participants were all administrators/directors except two who administrative judges representing the U.S. Federal Administrative Court in Washington, DC.

### FSM Judicial Education Development Plan

The FSM Judicial Education Development Plan (JEDP) is a training plan for FSM Supreme Court and FSM States Courts Justices and staffs organize and put together by the Chief Justices of the Federated States of Micronesia and a working group. The goal of the FSM JEDP is to strengthen the rule of law, judicial independence, and good governance throughout the Federated States of Micronesia. The working group consisting of Associate Justice Dennis K. Yamase as Chairman, Associate Justice Benjamin F. Rodriguez of the Pohnpei Supreme Court, Director Kapilly Capelle, Chief Clerk Kohsak Keller and National Justice Ombudsman John A. William. The working group continues to review and revise the plan. The JEDP's aim is to meet the training needs of the FSM Courts. The target date for the new plan to be ready is August 1, 2008. The JEDP is currently under review by all the Chief Justices of the FSM courts. The First Plan was put into effect five years ago and has resulted in many series of training.

### About the Law

When one person has a dispute with another, he may sue that person in a civil action for civil damages, which usually means that he is asking the court to order the other person to pay him money. This is different from a criminal action, when the state or national government brings a suit against someone and asks the court to find that person guilty of a crime and to punish him. All cases, whether civil or criminal, that are filed in the FSM Supreme Court are governed by applicable rules. Civil cases are governed by the FSM Rules of Civil Procedure and criminal cases are governed by the FSM Rules of Criminal Procedure.

A civil case, which may also be called a civil proceeding, is started when the person who claims to be the one who has suffered a loss or wrong files a document called a complaint with the court. This person who claims to be wronged is called the plaintiff. It is the plaintiff who initiates a case or a complaint, and not the court. The complaint sets out the basis of the plaintiff's claim, and also identifies the defendant, who is the person that the plaintiff claims has wronged him. The complaint tells the defendant what the plaintiff wants from the defendant and why. This is usually money. After the plaintiff files the complaint, he must see that the defendant receives a copy of the complaint. This is called serving the defendant. After the defendant has received a copy of the complaint, he then has twenty days in which to make sure that the plaintiff receives a copy of his response. This document is called an answer. The answer sets out the parts of the plaintiff's claim the defendant agrees with, and also sets out those parts of the plaintiff's claim that the defendant disagrees with. Then the court reads the complaint and the answer together, it then can determine generally what the case's issues are. At this point in the lawsuit, the parties are said to be "at issue."

### 3rd PJC Conference

(continued from p.2)

conference. The 3rd PJC conference was funded in most part by the FSM Judicial Training Fund provided under the Compact of Free Association which the Pacific Islands Committee Administers.

The 3rd PJC Court Administrators Conference instructors were Ms. Janet Cornell, Court Administrator for City Court of Scottsdale, Arizona; Ms. Barbara Anderson, Assistant Division Director for In-Court Programs Education Division in Washington, D.C.; Mr. Frank Leon Guerero, Marshal of the Courts, Judiciary of Guam; and Mr. Ronnie G. Q. Castro, Deputy Marshal III of the Judiciary of Guam.

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