**IN THE HIGH COURT**
**OF THE**
**REPUBLIC OF THE MARSHALL ISLANDS**

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| ANDREW LANIDRIK, KITIEN LANGIDRIK and ELI SAM<br>Plaintiffs,<br><br>v.<br><br>CATHERINE NEIMAT REIMERS and INDIESTRADER MARINE ADVENTURE, INC.,<br><br>Defendants, | ) | CIVIL ACTION NO 2017-00022<br><br><br><br>**ORDER DENYING MOTION TO AMEND OR ALTER JUDGMENT AND FINAL JUDGMENT** |

TO: Atbi A. Riklon, Esq., Counsel for Plaintiffs
Jack Jorbon, Esq., Counsel for Defendant Catherine Neimat Reimers
David Strauss, Esq., Counsel for Defendant Indiestrader Marine Adventure, Inc.

## I. INTRODUCTION AND PROCEDURAL HISTORY OF THIS CASE

1. In June 2010, Nelu Watak, the Iroijlaplap of Beran Island, Ailinglaplap Atoll, entered into a "Real Property Lease for Portions of Berang (*sic*) Island, Ailinglaplap Atoll, Republic of the Marshall Islands". The lease was entered into between the Iroijlaplap and IndiesTrader Marine Adventures, Inc., through its Chief Executive Officer, Martin Daly. The purpose of the lease was to build a resort.

2. The lease includes the warranty of the Iroijlaplap that Beran Island is an "Iroij Island" and had no Alap or Senior Ri-jerbal rights, titles or interests attached to it.

3. In December 2010, Iroijlaplap Watak filed a "Declaration of Traditional Rights, Beran Island, Ailinglaplap Atoll, Republic of the Marshall Islands", with the Marshall Islands Land Registration Authority (LRA). In that filing, Iroijlaplap Watak declared that Beran Island was and is traditional *Mo* land, meaning it belongs only to the Iroij with no other titles, rights or interests tied to it.

4. The lease called for the Iroijlaplap to obtain a Certificate of Registration for Beran Island from the LRA. While it appears that the application process was initiated, Iroijlaplap Watak died before the certificate of registration process was completed.

5. Iroijlaplap Watak was succeeded in interest by Iroijlaplap Catherine Neimat Reimers. In May 2014, Iroijlaplap Catherine Neimat Reimers filed an application for a Certificate of Registration of Beran Island with the LRA. Plaintiffs in this action filed a timely objection with the LRA, which gave rise to this case.

**A. FILINGS IN CIVIL ACTION 2016 - 096**

6. In its May 2016 filing in Civil Action No. 2016-096, Plaintiffs Eli Sam, Alexander Langidrik, Gordon Note and Racy Reiher filed a Complaint for Declaratory Judgment and Injunctive Relief against Defendants Nelu Watak, Jimata Kabua, Jamurlok Kabua, Joraur Watak, Augustine Nakamura, Indiestrader Marine Adventures, Inc., and Martin Daly. In Plaintiffs' Complaint in Civil Action No. 2016-096, Plaintiffs alleged that they exercised the Alap and Senior Ri-jerbal rights on Beran Island, Ailinglaplap Atoll, Republic of the Marshall Islands. The Complaint in that action included a statement that Iroijlaplap Watak's claim that Beran Island is *Mo* land is false and that the lease

entered into by him without their permission was wrongfully executed by the Iroijlaplap without their consent and engagement.

7. In June 2016, a First Amended Complaint was filed in Civil Case 2016-096, which sought a Declaratory Judgment and Eviction against the lessees, Catherine Neimat Reimers, IndiesTrader Marine Adventures, Inc., and Daly.

8. In December 2016, a Second Amended Complaint was filed in Civil Action 2016-096 seeking a Declaratory Judgment, Injunctive Relief and Eviction against the same Defendants.

9. The High Court issued an Order Dismissing Civil Action 2016-096, without prejudice, in January 2017, finding that the Plaintiffs had failed to comply with Marshall Islands Special Rule of Civil Procedure 1.

**B. FILING IN 2017-022**

10. In February 2017, Plaintiffs Andrew Langidrik, Kitien Langidrik and Eli Sam filed the current case, and in their Complaint for Declaratory Judgment and Eviction against the Defendants in this case, Plaintiffs allege that they exercise the Alap and Senior Ri-jerbal rights on Beran Island, Ailinglaplap Atoll, and that Iroijlaplap Watak had falsely declared that Beran Island was traditional *Mo* land. They further alleged in their complaint that Iroijlaplap Watak had entered into the Beran Island lease without permission of the Alap and Senior Ri-jerbal, which they alleged was wrongful.

11. In December 2017, the High Court referred the following questions to the Traditional Rights Court (TRC) for their opinion in this case:

    a. Is Beran Island, Ailinglaplap Atoll, *mo* land?

b. May an Iroij unilaterally lease *mo* land?

c. Is Andrew Langidrik the holder of the Alap title on any portion of Beran Island, Ailinglaplap Atoll? If so, which portion(s)?

d. Is Kitien Langidrik the holder of the Senior Ri-jerbal title on any portion of Beran Island, Ailinglaplap Atoll? If so, what portion(s)?

12. Trial was held before the TRC to address these questions in March 2019. The TRC issued its answers to the questions finding that Beran Island, Ailinglaplap Atoll, Marshall Islands was *Mo* land for the Iroij of Laelan Kabua's domain. The TRC rejected the conclusion that some portion of Beran was given to Langidrik as *imon aje,* and that Jitoen (a portion of Beran) is *imon katlep* land, as Plaintiffs could not identify who made the land grant, and because there was no written will from Laelan Kabua or Kabua Kabua giving land to Plaintiffs as *imon aje* or *katlep.* The TRC also found that at one time there was a man named Jorju who was the Alap and Dri Jerbal on Beran Island. However, the TRC found that Laelan Kabua removed Jorju for failing to clean and take care of the land. The TRC concluded that the removal of Jorju from those positions was consistent with Marshallese Custom. Finally, the TRC found that Iroij Laelan Kabua had permitted Langidrik and his people to rest on and eat food from Beran during travels between Jabot and Ailinglaplap, but that this did not change the status of Beran Island as *mo* land.

13. On these facts, the TRC concluded:

a. That Beran Island, Ailinglaplap is *mo* land held by the Iroij of Laelan Kabua's domain;

b. As Beran is *mo* land, the Iroij may lease the land unilaterally;

c. Andrew Langidrik is not the holder of the Alap title on Beran Island, or any portion of it;

d. Kitien Langidrik is not the holder of the Senior Dri Jerbal title on Beran Island or any portion of it.

**C. DECEMBER 16, 2019 DECISION OF THE HIGH COURT ADOPTING TRC'S OPINION IN ANSWER IN 2017-022**

14. The High Court reviewed the TRC's Opinion in Answer to the questions which had been referred to the TRC, and concluded that there was a sufficient factual basis to support the TRC's determination, and found no error in fact or in law to part from the TRC's Opinion in Answer. On December 16, 2019, the High Court entered its Judgment adopting the TRC's findings and conclusions on these issues.

**D. PLAINTIFFS' "MOTION TO ALTER OR AMEND JUDGMENT", DECEMBER 30, 2019**

15. While ordinarily disagreement by a Party to a Judgment would be resolved through an appeal filed with the Marshall Islands Supreme Court, in this case, the Plaintiffs' Counsel instead filed a "Motion to Alter or Amend Judgment" on December 30, 2019.

16. In the December 30, 2019 Motion, Counsel for Plaintiffs' cited MIRCP Rules 7 and 59(e) as the authority for the Motion. In that Motion, Counsel for Plaintiff sought relief by requesting that the High Court's order and judgment be vacated, and that the case be remanded to the TRC to determine the same questions it had just decided, that is, is

Beran Island *mo* land and are Andrew Langidrik and Kitien Langidrik holders of the Alap and Senior Ri-jerbal rights on Beran Island.

17. In an Order issued by the High Court on February 5, 2020, the High Court returned the case to the TRC to consider whether Exhibit D-10 represented a genealogy of the Alap and Senior Ri-jerbal on Beran or the genealogy of the Alap and Senior Ri-Jerbal on Jabot Island, and to consider testimony of Bilton Sam before the TRC that Iroijlaplap Laelang and Neimat put Sam's family on Beran and gave them rights of Alap and Ri-jerbal, and how the TRC concluded that it was not established that the Plaintiffs knew who put them on that land and gave them those rights.

18. An extensive series of delays followed the referral of these additional questions to the TRC, and an Opinion regarding the additional questions was delivered in March 2024 in Marshallese only. That Opinion was undated at the time it was received, but was ordered by the High Court to be filed with the date of March 15, 2024 since the date could not be determined with certainty. The High Court also ordered an English translation of the Opinion. The English translation was filed on April 3, 2024.

**E. TRC'S MARCH 15, 2024 OPINION IN ANSWERS IN RESPONSE TO QUESTIONS REFERRED BY REASON OF THE PLAINTIFFS' MOTION TO ALTER OR AMEND JUDGMENT**

19. In the TRC's March 15, 2024 Opinion, English version April 3, 2024, the TRC concluded:

    a. Exhibit D-10 comes from the third generation in the succession line according to the testimonial evidence given, stating that Jitoen on Beran Island is *imon aje* or

*Katlep,* though it is not clear from who. The TRC further found that a letter by Morry Samson indicated that Samson should attend a meeting on Buoj as an alap of Beran Island, and not Langidrik. The TRC referred to Exhibit D-7 as the evidence on this point. The TRC noted that Plaintiff Eli Sam's testimony was that Jitoen on Beran Island is an *imon aje* to Langidrik, but that Eli Sam did not recall who gifted the land to him. The TRC concluded these claims were contradictory, and thus, the TRC concluded that the genealogy in D-10 was for Jabot Island and not Beran Island.

b. Considering the testimony of Bilton Sam, the TRC concluded that a man named Jorju was an alap and ri-jerbal on Beran Island at one time, but that Iroijlaplap Laelan Kabua divested Jorju of the rights and titles for neglecting his duties and responsibilities on Beran Island as an alap and ri-jerbal. From this, the TRC concluded that Beran Island is *mo* land, as supported by evidence attributed to Iroijlaplap Nelu Watak and others in Exhibit D-4.

c. The TRC concluded that claims that Beran Island is *imon aje* and *Katlep* made by the Plaintiffs are not valid because there is no *kalimur* made by the Irooj who owned Beran Island, Iroijlaplap Laelan Kabua and Iroijlaplap Kabua Kabua, which support a finding that they gifted Plaintiffs with the rights and titles claimed on Beran Island.

d. The competing claims which describe a meeting that took place result in a conclusion by the TRC that there is insufficient evidence presented to the TRC to support the Plaintiffs' claim that there were alaps or ri-jerbal on Beran Island.

e. Thus the TRC concludes that Beran Island is a *mo*, or land that is exclusively owned by the Iroij.

**F. "PLAINTIFF'S (*sic*) MOTION FOR SUBMISSION OF EVIDENCE TO THE TRADITIONAL RIGHTS COURT, IN THE BEST INTEREST OF JUSTICE, FOR THE TRC'S DETERMINATION ON THE ISSUE OF MO LAND, PLAINTIFF'S (sic) EXHIBIT P01; MEMORANDUM IN SUPPORT OF MOTION, COUNSEL DECLARATION; CERTIFICATE OF SERVICE" FILED APRIL 5, 2024**

20. The Plaintiffs' Counsel's unique use of the Motion to Amend or Alter the Judgment under the Marshall Islands Rules of Civil Procedure resulted in four years of delay in resolving the issues brought by the Parties to the Court. Apparently, emboldened by the success of this approach, the Counsel for Plaintiff filed the above-titled motion on April 5, 2024. The declared basis on which the Plaintiffs' Counsel submitted this unique request is cited in the brief as "pursuant to Rules 7 and 9, and other relevant and applicable Rules of the Traditional Rights Court (the 'TRC') Rules of Civil Procedure and is based on the case record, the Counsel Declaration, Supporting Memorandum, and argument to present during hearing of this Motion."

21. Rule 7 of the Marshall Islands Traditional Rights Court Rules of Procedure states: "Rule 7. Procedures Before the Traditional Rights Court. Each Traditional Rights Court panel assigned to hear and determine a case shall meet at the call of the presiding judge. After the presiding judge has convened the court, the presiding judge shall open the case and proceed generally in the following manner:

(a) The presiding judge will make certain that each Traditional Rights Court member has a copy of the High Court's file;

(b) Each party will then be informed that the party may make a statement in which that party informs the court regarding the issues in the case and how it suggests the court resolve the questions presented;

(c) Each party will then be permitted to present to the court its testimony and other evidence in the case. The plaintiff will be permitted to present its testimony and other evidence first, then the defendant thereafter. After the defendant has presented its testimony and other evidence, the plaintiff will be entitled to present further testimony and/or other evidence to refute any new testimony or other evidence presented by the defendant.

(d) Each party will be permitted to present a final statement to the court summarizing what the party suggests the evidence shows and suggesting how the court should decide the questions before it and why. The plaintiff will summarize first, then defendant. After defendant's summary, plaintiff may reply to new matters brought up by defendant in its summary.

(e) At any stage of its proceedings, the Traditional Rights Court may call or recall witnesses, ask questions of any witness or party, and require that additional evidence be presented to it.

(f) If the Traditional Rights Court has any questions of law or procedure that they need answered before they determine the issues presented to them in the case, such questions may be presented in writing to the referring High Court judge and the

referring judge may give either written answers to these questions, or may meet with the parties and the court in its courtroom and answer such questions of law and procedure, together with any other oral questions they may have on the record.

(g) After the court has resolved by majority vote the questions referred to it, it shall reduce its determinations into a writing entitled "Opinion of the Court" that shall give a specific answer to each question referred to it. This opinion shall be signed by all of the members of the court panel concurring in the opinion, and shall be transmitted to the High Court judge who referred the case, and a copy shall be sent to each of the parties to the case. A dissenting member may, if the member so desires, compose and transmit, with the majority opinion, a 'Dissenting Opinion.'"

22. The Court finds there is nothing in Rule 7 of the Marshall Islands Traditional Rights Court Rules of Procedure which calls for, allows, or supports, the Motion filed by the Plaintiffs' Counsel on April 5, 2024.

23. Rule 9 of the Marshall Islands Traditional Rights Court Rule of Procedure reads as follows:

"Rule 9. Procedure After Transmittal of Decision. After transmittal of the opinion of a panel of the Traditional Rights Court, the High Court judge shall examine the opinion to make certain that all of the questions referred to the Traditional Rights Court have been answered sufficiently to permit the case to be tried to its conclusion in the High Court without further referrals to the Traditional Rights Court. The High Court shall then set the case for hearing before itself, and allow the parties to make their presentations regarding the decision and regarding the status of the case, and

such other or further proceedings as appear necessary to a final determination of the case. If, after such hearing, it appears to the High Court judge that it is in the best interests of justice that the questions referred to the Traditional Rights Court for determination be resubmitted for any valid reason, such as the failure to follow procedure, failure to completely answer any questions submitted to the court, or the apparent necessity of further opinions on additional questions by such court, then the High Court judge shall resubmit the case to the Traditional Rights Court, and absent good cause to the contrary to the same panel of the Traditional Rights Court that made the original decision, together with necessary instructions. If there be no necessity for re-submission, then the High Court judge shall proceed to disposition of all of the issues in the case, including those questions submitted to the Traditional Rights Court, but the High Court, in disposing of the case before it, shall with respect to questions referred to the Traditional Rights Court rely on the record before the Traditional Rights Court and shall give substantial weight to the opinion of the Traditional Rights Court as required by the Constitution. (See Cont. Art. VI, Sec. 4). Should the High Court conclude that justice does not require that the Traditional Rights Court's resolution of any question submitted to it be binding upon the High Court in its resolution of the case before it and out of which the submitted questions arose, the High Court shall set forth in writing its reasons therefore and shall continue to determine the case without being bound by the Traditional Rights Court's opinion, but shall in any event give substantial weight to such opinion."

24. This Rule establishes the Rule 9 procedures which were followed twice in this case by calling on the Counsel to file their briefs in support or opposition. A "Motion" such as that filed by Counsel for Plaintiffs on April 5, 2024 does not fall within that Rule either. The matters contained in the Counsel for Plaintiffs April 5, 2024 "Motion" may have been incorporated into the Opening Brief under Rule 9, and, whether in the brief or oral arguments, those issues have been considered by the Court in reaching its decision in this case.

25. In its April 5, 2024 Motion, Counsel for Plaintiffs requests that a series of additional questions be submitted to the TRC. These questions repeat the Plaintiffs' Counsel's disagreement with the decisions made by the TRC, but the Court concludes, after considering the Motion, the Brief of Plaintiffs' Counsel under Rule 9, and the Opposition, that none of the matters contained in the April 5, 2024 Motion warrant a return of this case to the Traditional Rights Court to respond to any further questions to resolve the issues regarding the land dispute in this case. The matters submitted in the April 5, 2024 Motion are more in the nature of an appeal brief than it is of any matter remaining unresolved for purposes of reaching a decision at the High Court in this case. Therefore, the Plaintiffs' Counsel's April 5, 2024 Motion is denied.

## G. RULE 9 HEARING FOLLOWING THE OPINION IN ANSWER OF THE TRC OF MARCH 15, 2024 ANSWERING QUESTIONS

26. The High Court called on Counsel for Plaintiffs to file its Opening Brief pursuant to Rule 9. The Opening Brief submitted by Counsel on May 13, 2024 does not identify any alleged error in fact or in law, but rather requests that the High Court refer this 2017

case back to the TRC to respond to questions which would ask the TRC not to offer further opinion based on custom and tradition, but rather to explain further how it concluded that the evidence presented in the case was insufficient to prove the Plaintiffs' claims. The Plaintiffs' Counsel's brief continues to focus on Exhibit D-10, which the TRC concluded is a genealogy addressing not Beran Island, but Jabot Island. The Plaintiffs' Opening Brief asks that these questions be referred back to the TRC:

a. Whether the removal of Jorju and his family from Beran Island effectively changes Defendant's Exhibit D-10 into a Menmenbwij of Jabot Island, when Jorju and his family had no connection with the Langidrik family as shown in Exhibit D-10;

b. On what other evidence introduced by the defendants to counter the testimony by their own witness Mr. Hinikey Lomwe, that he and his own families described in Exhibit D-10 were the families who lived in Iolapen Weto, Beran Island;

c. What evidence supports the TRC's decision? Whether the installation of the Langidrik family by Iroijlaplap Laelan Kabua is revocable by the current person exercising the Iroij title;

d. How does the plaintiff fail to prove that an Iroijlaplap grants them the alap and ri-jerbal rights and interests on Jitoen Weto, Beran Island.

27. Defendant Catherine Neimat Reimers filed its Opposition on June 18, 2024, and Defendant Indiestrader filed its Opposition on June 20, 2024.

28. The Court heard oral arguments of the Counsel for the Parties on August 27, 2024.

29. Counsel for Plaintiffs and for Defendants did not address the nature of the "Motion to Alter or Amend the Judgment", which appears to be the basis on which the additional questions were referred to the TRC for its Opinion In Answer.

## II. DECISION UNDER RULE 59(e)

30. The procedure by which additional questions were referred to the TRC in this matter was, according to the filing by Plaintiffs' Counsel, submitted in accordance with Rules 7 and 59(e) of the Marshall Islands Rules of Civil Procedure.

31. It is clear from the Opinion In Answer of the TRC which was filed with a date of March 15, 2024 and the English translation of which is dated April3, 2024, that the TRC finds no reason to amend or alter the High Court's Judgment. This is made clear in the Opinion In Answer addressing the additional questions referred to the TRC arising from the Plaintiffs' Motion to Alter or Amend Judgment, and thus, there is no basis on which the High Court would be supported in granting the Motion to Alter or Amend the Judgment.

32. Within the terms of MIRCP Rule 60, the Plaintiffs did not allege or establish any basis on which relief from the Judgment issued by the High Court in December 2019 should be granted, that is, Plaintiffs did not allege a clerical mistake, or a mistake arising from oversight or omission. The Plaintiffs did not allege a mistake, inadvertence, surprise or excusable neglect by the moving party or an inadvertent mistake by the court or a clerk. The Plaintiffs did not allege fraud, misrepresentation or misconduct by an opposing party. The Plaintiff did not allege that the Opinion In Answer of the TRC and the Judgment by the High Court in December 2019 is void, and

there are no bases for other relief under MIRCP Rule 60 from the Judgment issued by the High Court in December 2019.

33. On this basis, therefore, the Motion to Amend or Alter the Judgment is **DENIED**.

## III. DECISION UNDER RULE 9

34. Although the additional questions were referred to the TRC through the Plaintiffs' Motion to Amend or Alter the Judgment, and that Motion has been denied, in an abundance of caution, the Court also adopts the Traditional Rights Court's Opinions in this case in respect of the answers to the questions referred to it originally, and those questions referred to it through the Motion to Amend or Alter the Judgment. The Court here applies the constitutionally required deference to the decision of the Traditional Rights Court and concludes that the each of the Opinions is not clearly erroneous or contrary to law.

### A. STANDARD OF REVIEW

35. The standard by which the High Court reviews the TRC's resolution of questions certified to it is set forth in Article VI, Section 4(5) of the Constitution. The Constitution requires that the TRC's "resolution of the question shall be given substantial weight in the [High Court's] disposition of the legal controversy before it; but shall not be deemed binding unless the [High Court] concludes that justice so requires." Const. Art. VI, Sec. 4(5). The Supreme Court has interpreted this language to impose limits upon the ability of the High Court to reject the TRC's disposition. The High Court is not to re-try the case anew. "The High Court's duty is to review the decision of the TRC, and to adopt that decision unless it is clearly erroneous or contrary to law." *Abija v. Bwijmaron*, 2 MILR 6, 15 (RMI Sup. Ct. 1994).

36. "[A] finding is 'clearly erroneous' when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." *Bulele v Morelik,* 3 MILR 96, 100 (2009), citing *Anderson v. City of Bessemer*, 470 U.S. 564, 573, 105 S. Ct. 1504, 84 L. Ed. 2d 518 (1985); *Zaion v Peter*, 1 MILR (Rev.) 228, 232 (1991) . The clearly erroneous standard does not entitle a reviewing court to reverse the findings of the trier of fact simply because it is convinced that it would have decided the case differently; the reviewing court's function is not to decide the factual issues *de novo*. *Id.* at 573-574. Where there are two permissible views of the evidence, the fact finder's choice between them cannot be clearly erroneous. *Bulele*, 3 MILR at 100, citing *Amadeo v. Zant*, 486 U.S. 214, 225, 108 S. Ct. 1771, 100 L. Ed. 2d 249 (1988) (*citing Anderson*, 470 U.S. at 574). When the High Court acts as a court of review, as in the case where it is considering the decision of the Traditional Rights' Court's answers to questions referred to it by the High Court, it must view the evidence in the light most favorable to the lower court's ruling and must uphold any finding that is permissible in light of the evidence. *Dribo v Bondrik*, 3 MILR 127, 138 (2010).

37. **The fact finder's factual findings need not be perfect or detailed as long as the reviewing court can adequately review them.** *See, e.g., Davis v. City & County of San Francisco*, 890 F .2d 1438, 1451 (9th Cir. 1989). (Emphasis added). Factual findings are sufficient if they provide the reviewing court with an understanding of the basis of the fact finder's decision and the grounds upon which it reached that decision. *See, e.g., Keane v. Commissioner of Internal Revenue*, 865 F.2d 1088, 1091-92 (9th Cir. 1989).

38. Rule 9 of the Traditional Rights Court Rules of Procedure directs that the High Court judge ". . . shall examine the opinion to make certain that all of the questions referred to the

Traditional Rights Court have been answered sufficiently to permit the case to be tried to its conclusion in the High Court without further referrals to the Traditional Rights Court." The Rule goes on to state "If, after [the Rule 9 Hearing], it appears to the High Court judge that it is in the best interests of justice that the questions referred to the Traditional Rights Court for determination be resubmitted for any valid reason, such as the failure to follow procedure, failure to completely answer any questions submitted to the court, or the apparent necessity of further opinions on additional questions by such court, then the High Court judge shall resubmit the case to the Traditional Rights Court. . .". The Rule further reiterates the Constitutional obligation to give "substantial weight to the opinion of the Traditional Rights Court."[1]

**IV. DISCUSSION**

39. The Constitution of the Republic of the Marshall Islands establishes the jurisdiction of the Traditional Rights Court using this language (English version):

"The jurisdiction of the Traditional Rights Court shall be limited to the determination of questions relating to titles or to land rights or to other legal interests depending wholly or partly on customary law and traditional practice in the Republic of the Marshall Islands."[2]

40. The Constitution of the Republic of the Marshall Islands further reinforces the authority of the Traditional Rights Court as the source of interpretation of customary law and traditional practice in the Republic of the Marshall Islands in Article IV, Section 4(5), stating: "When a question has been certified to the Traditional Rights Court for its determination under paragraph (4), its resolution of the question shall be given substantial weight in the certifying

[1] Rule 9, Traditional Rights Court Rules of Procedure.

court's disposition of the legal controversy before it; but shall not be deemed binding unless the certifying court concludes that justice so requires."[3]

41. As noted earlier, "**the fact finder's factual findings need not be perfect or detailed as long as the reviewing court can adequately review them.** *See, e.g., Davis v. City & County of San Francisco*, 890 F .2d 1438, 1451 (9th Cir. 1989)." (Emphasis added). Factual findings are sufficient if they provide the reviewing court with an understanding of the basis of the fact finder's decision and the grounds upon which it reached that decision. *See, e.g., Keane v. Commissioner of Internal Revenue*, 865 F.2d 1088, 1091-92 (9th Cir. 1989).

42. Here, the High Court is satisfied that the factual findings in both TRC Opinions in Answer filed in this case are sufficient. That is, the High Court finds that the factual findings in both TRC Opinions in Answer filed in this case provide the High Court with an understanding of the basis of the fact finder's decision and the grounds upon which it reached its decisions.

43. While the Plaintiffs' Counsel would like the TRC to have concluded that controverted evidence was more persuasive from witnesses it suggests were more convincing, that does not reflect the view of the TRC which is the authority appointed by the Constitution of the Republic of the Marshall Islands entrusted with weighing the controverted evidence and in reaching decisions on it. The Plaintiffs' Counsel's April 5, 2024 Motion is really an argument that witnesses other than those the TRC found most credible should change the outcome of this case. The fact finders charged with hearing the evidence adequately supported their findings of

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[2] Constitution of the Republic of the Marshall Islands, Article VI, Section 4(3).
[3] Constitution of the Republic of the Marshall Islands, Article VI, Section 4(5).

fact, in the view of this Court, and therefore, in accordance with the Constitution of the Republic of the Marshall Islands, the TRC's decision is entitled to substantial weight.

Giving substantial weight to the findings of fact and conclusions of the Traditional Rights Court's found in each of the Traditional Rights Court's Opinion In Answer submissions, the considering the facts in the light most favorable to the lower court's ruling, and finding no substantial error of fact or law in its conclusions with respect to the customary and traditional practice in the Republic of the Marshall Islands, the Court adopts the Opinion In Answer of the Traditional Rights Court in this case.

## V. CONCLUSION

44. After reviewing the evidence, the High Court finds that there is a sufficient factual basis for the both the Opinions and Answers decided by the TRC to support those findings and opinions. Further, the High Court finds that the referred questions, both those initially referred and those referred in 2020, were sufficiently answered and the High Court does not conclude that additional questions need to be addressed. The High Court finds that there no error in fact or in law such that the either Opinion In Answer filed by the Traditional Rights Court should be rejected.

45. Therefore the Court concludes:

a. That Beran Island, Ailinglaplap is *mo* land held by the Iroij of Laelan Kabua's domain;

b. As Beran is *mo* land, the Iroij may lease the land unilaterally;

c. Andrew Langidrik is not the holder of the Alap title on Beran Island, or any portion of it;

d. Kitien Langidrik is not the holder of the Senior Dri Jerbal title on Beran Island or any portion of it.

AND

e. Exhibit D-10 comes from the third generation in the succession line according to the testimonial evidence given, stating that Jitoen on Beran Island is *imon aje* or *Katlep,* though it is not clear from who.

f. A letter by Morry Samson indicated that Samson should attend a meeting on Buoj as an alap of Beran Island, and not Langidrik. (See Exhibit D-7)

g. Plaintiff Eli Sam's testimony was that Jitoen on Beran Island is an *imon aje* to Langidrik, but that Eli Sam did not recall who gifted the land to him.

h. These claims of Eli Sam and Morry Samson are contradictory, and thus, the genealogy in D-10 is for Jabot Island and not Beran Island.

i. Considering the testimony of Bilton Sam, a man named Jorju was an Alap and Ri-jerbal on Beran Island at one time, but that Iroijlaplap Laelan Kabua divested Jorju of the rights and titles for neglecting his duties and responsibilities on Beran Island as an alap and ri-jerbal.

j. Based on this, Beran Island is *mo* land, as supported by evidence attributed to Iroijlaplap Nelu Watak and others in Exhibit D-4.

k. Claims that Beran Island is *imon aje* and *Katlep* made by the Plaintiffs are not valid because there is no *kalimur* made by the Irooj who owned Beran Island, Iroijlaplap Laelan Kabua and Iroijlaplap Kabua Kabua, which support a finding that they gifted Plaintiffs with the rights and titles claimed on Beran Island.

l. The competing claims which describe a meeting that took place result in a conclusion by the TRC that there is insufficient evidence presented to the TRC to support the Plaintiffs' claim that there were alaps or ri-jerbal on Beran Island. l.

m. Thus the TRC concludes that Beran Island is a *mo*, or land that is exclusively owned by the Iroij.

## VI. ORDER

ACCORDINGLY, IT IS ORDERED, ADJUDGED, AND DECREED as follows:

a. That Beran Island, Ailinglaplap is *mo* land held by the Iroij of Laelan Kabua's domain;

b. As Beran is *mo* land, the Iroij may lease the land unilaterally;

c. Andrew Langidrik is not the holder of the Alap title on Beran Island, or any portion of it;

d. Kitien Langidrik is not the holder of the Senior Dri Jerbal title on Beran Island or any portion of it.

e. Exhibit D-10 comes from the third generation in the succession line according to the testimonial evidence given, stating that Jitoen on Beran Island is *imon aje* or *Katlep,* though it is not clear from who.

f. A letter by Morry Samson indicated that Samson should attend a meeting on Buoj as an alap of Beran Island, and not Langidrik. (See Exhibit D-7)

g. Plaintiff Eli Sam's testimony was that Jitoen on Beran Island is an *imon aje* to Langidrik, but that Eli Sam did not recall who gifted the land to him.

h. These claims of Eli Sam and Morry Samson are contradictory, and thus, the genealogy in D-10 is for Jabot Island and not Beran Island.

i. Considering the testimony of Bilton Sam, a man named Jorju was an Alap and Ri-jerbal on Beran Island at one time, but that Iroijlaplap Laelan Kabua divested Jorju of the rights and titles for neglecting his duties and responsibilities on Beran Island as an alap and ri-jerbal.

j. Based on this, Beran Island is *mo* land, as supported by evidence attributed to Iroijlaplap Nelu Watak and others in Exhibit D-4.

k. Claims that Beran Island is *imon aje* and *Katlep* made by the Plaintiffs are not valid because there is no *kalimur* made by the Irooj who owned Beran Island, Iroijlaplap Laelan Kabua and Iroijlaplap Kabua Kabua, which support a finding that they gifted Plaintiffs with the rights and titles claimed on Beran Island.

l. The competing claims which describe a meeting that took place result in a conclusion by the TRC that there is insufficient evidence presented to the TRC to support the Plaintiffs' claim that there were alaps or ri-jerbal on Beran Island. l.

m. Thus the TRC concludes that Beran Island is a *mo*, or land that is exclusively owned by the Iroij.

No costs are assessed against the parties.

Date: August 30, 2024

Linda S. Murnane
Associate Justice