

*NECO v. Rdialul*, 3 ROP Intrm. 98 (1992)  
**NGIRATKEL ETPISON CO., LTD. (NECO),**  
**Appellant,**

v.

**ABBY RDIALUL, dba ABBY'S MARINE,**  
**Appellee.**

CIVIL APPEAL NO. 22-91  
Civil Action No. 89-88

Supreme Court, Appellate Division  
Republic of Palau

Appellate decision  
Decided: February 20, 1992

Counsel for Appellant: Douglas F. Cushnie

Counsel for Appellee: David Shadel

BEFORE: MAMORU NAKAMURA, Chief Justice; LOREN A. SUTTON, Associate Justice;  
and ROBERT A. HEFNER, Associate Justice

PER CURIAM:

On July 1, 1991, Appellant filed a notice appealing a Trial Court decision which denied Appellant's motion for a new trial. In a letter to the Chief Clerk of Courts, dated July 5, 1991, Appellant's counsel requested that the record be certified, including the transcript which previously had been prepared in connection with the prior appeal of the original judgment entered on February 2, 1990.

On August 13, 1991, Appellant's counsel personally asked the Chief Clerk why the record had not been certified, and was informed that it was unclear whether a certification was necessary because the transcript had already been prepared. While the Chief Clerk was consulting with the Chief Justice in his outer office as to **L99** whether certification was necessary, Appellant's counsel entered and explained that, in his opinion, the date for filing Appellant's brief should run from certification of the record if a transcript is needed or requested on appeal, regardless of whether a transcript has already been prepared.

According to Appellant's counsel, the Chief Clerk was advised to certify the record, which occurred on August 14, 1991. Appellant's brief was filed within 45 days of the date the record was certified.

Appellee argues that Appellant's brief should have been filed by August 15, 1991, 45

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days after notice of appeal was filed, pursuant to Rule 31(b) of the ROP Rules of Appellate Procedure.

Appellant admits that it was not necessary to request preparation of a transcript for this appeal because a transcript had previously been prepared. Rule 31(b) specifies that an appellant's brief must be filed within 45 days after the filing of the notice of appeal if a transcript is not designated or is waived. If a transcript is requested, appellant's brief must be filed within 45 days after notification that the Clerk has certified the record. This allows appellant sufficient time to review the transcript before filing its brief. If a transcript is not necessary for the appeal, or if one already exists, appellant does not need the extra time provided by the later filing date.

This Court previously has advised attorneys practicing in Palau against relying on informal interpretations of court rules. *See, Silmai v. Pension Board et al.*, 1 ROP Intrm. 631 (App. Div. **L100** May 1989). The rules of appellate procedure indicate the proper manner by which parties can raise substantive and procedural questions for formal resolution by the court. *See, e.g.* Rule 27 ROP App. Rules of Procedure. Counsel pursue alternative approaches at their own, and their client's, risk.

Appellant has not established good cause for this Court to depart from following the rules of procedure.

IT IS HEREBY ORDERED that Appellee's motion to dismiss be GRANTED.