IN THE SUPREME COURT

OF THE

REPUBLIC OF THE MARSHALL ISLANDS

RIDEL SAMUEL, for Adelma Libao Samuel,

Plaintiffs/Appellees,

vs.

ALDIA LANGRINE LANGINBELIK, RUSSEL LANGRINE and ABA LANGRINE,

Defendants/Appellants.

Supreme Court Case No. 2020-00960
High Court Civil Action Nos. 2018-191 & 2018-195 Consolidated

OPINION

BEFORE: CADRA, C.J.; SEABRIGHT, A.J.;[1] and SEEBORG, A.J.[2]

CADRA, C.J., with whom SEABRIGHT, A.J. and SEEBORG, A.J. Concur:

I. INTRODUCTION

Appellants, Aldia Langrine Langinbelik, Russel Langrine and Aba Langrine, appeal an August 5, 2020, judgment of the High Court declaring that "as between the parties, Appellee Adelma Libao Samuel is the proper person to hold and exercise the *Iroij Edrik* and *Alap* rights and titles on and over Monkut Weto, Djarret Island, Majuro Atoll and Appellant Aldia Langrine

[1] Hon. J. Michael Seabright, District Judge, United States District Court, District of Hawaii, sitting as RMI Supreme Court Associate Justice by designation of the Cabinet.
[2] Hon. Richard Seeborg, Chief Judge, United States District Court, Northern District of California, sitting as RMI Supreme Court Associate Justice by designation of the Cabinet.

Langinbelik is the proper person to hold and exercise the *Senior Dri Jerbal* rights and title on and over Monkut Weto."

In reaching its judgment the High Court adopted the Traditional Rights Court's (TRC's) October 16, 2019 "Opinion and Answer of the Traditional Rights Court."

In brief, the TRC accepting Appellee's theory of the case concluded (i) that Likaulik held Monkut as *Ninnen* land from her father Laion, (ii) that she gave Monkut to her elder brother Litadrikin, as *Immon Ninnen* for Litadrikin's children with the consent of *Iropijlaplap* Jebdrik, (iii) before the rights were given to the children of Litakdrikin, Lomae (the son of Likaulik) held the rights because he was a member of the *bwij*, (iv) after Lomae, and after all the descendants of Litakdrikin had passed, a new *bwij* was established by Lijuiar, the only female amongst the children of Litakdrikin, (v) Bartimius, a member of the *bwij*, inherited his rights from his mother Lijuiar, (vi) the land then went to Bartimius siblings, (v) after Bartimius' siblings had passed, the rights passed to Neri's (a member of the *bwij*) children, of whom the eldest living today is Appellee Adelma Libao Samuel. The TRC rejected Appellants' theory that Bartimius had devised by an oral *kalimur* the rights to Monkut to his son Barwell which rights then descended to Barwell's oldest daughter, Appellant Aldia Langinbelik.

At the Rule 9 Hearing, Appellants objected to the TRC "Opinion and Answer" contending the TRC erred in relying on Plaintiff's Exhibits H, I and J. The High Court addressed Appellants' objections and found no error by the TRC in relying on those exhibits. Significantly, the High Court noted that those documents were relevant to the questions before the TRC and the TRC "may admit any evidence which is reasonably relevant to the question under its consideration" pursuant to Section 309 of the "Traditional Rights Court (Composition and Appointments) Act 1985," 27 MIRC 309.

Appellants timely filed their Notice of Appeal on September 3, 2020, specifying numerous errors regarding the lower courts' admission of evidence and conclusions drawn from that evidence. Appellants also claim that the High Court "abused its discretion" by not ruling on Appellee's motion for summary judgment and, instead, referring the matter to the TRC.

Despite having obtained a stipulated Court order allowing an extension of time in which to file its brief, Appellants filed their opening brief six days late on December 24, 2020. Appellants' brief was not accompanied by a motion allowing late filing and was not preceded by a (second) motion for enlargement of time. Appellee therefore seeks dismissal of this appeal for Appellants' failure to comply with Supreme Court Rule of Procedure (SCRP) Rule 26 (b)'s requirement of demonstration of "good cause" excusing the late filing of a brief. Appellants have offered no excuse for the late filing, we therefore GRANT Appellee's request for dismissal of this appeal for the reasons set forth below.

Although we find this appeal should be dismissed for Appellant's failure to demonstrate "good cause' for the late filing of its opening brief, we nevertheless proceed to address the merits of this appeal and other dispositive deficiencies in Appellant's briefing in the interests of completeness and because of the significance of the issues presented.

In considering Appellant's briefing, we find that Appellants' specifications of error regarding the TRC's admission and consideration of the challenged evidence have been forfeited by Appellants' failure to comply with SCRP Rule 28(b)(4) which requires citation to the record where objection was made before the trial courts.

Despite Appellant's defective briefing we have, nevertheless, independently reviewed the transcript of proceedings before the TRC. Based on our review of the transcript, we find that Appellants' objections to the evidence now raised in this appeal have been waived by

Appellants' failure to make "timely and specific" objection to the admission of that evidence before the trial court(s) as required by RMI Rules of Evidence, Rule 103(a). Because there was no proper objection the trial courts could properly consider such evidence in making its factual findings.

Further, even if Appellants' objections were not waived by failure to raise them below, we hold (as did the High Court) that the "Traditional Rights Court (Composition and Appointments) Act," 27 MIRC 309, allows the TRC to consider "any evidence relevant to the question under its consideration." We find no error by the trial courts' admission and consideration of the evidence objected to by Appellants.

Applying the "clearly erroneous" standard of review and giving deference to the TRC's findings as required by the Constitution, we find that "substantial" or "credible" evidence supports the trial courts' findings and conclusions and are, therefore, not "clearly erroneous." We therefore AFFIRM the judgment appealed from.

II. BACKGROUND, FACTS & PROCEEDINGS BELOW

This case is the most recent iteration of a long-standing dispute over the *Iroij Edrik, Alap* and *Senior Dri Jerbal* titles and rights on and over Monkut Weto, Djarret Island, Majuro Atoll.

The traditional titles to Monkut weto (also spelled Mwinkut) were previously litigated in the Trust Territory case of *Loton and Jeltan v. Bartimius Langrine*, Trust Territory Civil Action No. 317. The trial division held that Bartimius Langrine was the proper person to hold these traditional titles and rights to Monkut. That decision was appealed and remanded for further proceedings. On remand, the trial division entered a judgment dismissing plaintiffs' (Loton and

Jeltan's) claims to the traditional titles "with prejudice – not to be relitigated" on grounds of "laches."[3] That judgment was not appealed.

The events giving rise to this most recent dispute arose when Appellant Aba Langrine began construction of a building on Monkut Weto. In response Appellee Ridel Samuel on behalf of Adelma Libao Samuel commenced a civil action seeking a temporary restraining order and declaration that Adelma Libao Samuel was the proper person to hold the *Iroij Edrik* and *Alap* rights on Monkut Weto and that Alda Langrine Langinbelik was the proper person to hold the *Senior Dri Jerbal* rights on Monkut.[4] Appellants in turn commenced a civil action seeking a declaration that they were the proper traditional title holders of all three interests on Monkut.[5] These cases were consolidated for all purposes by the High Court.

On October 26, 2018, Appellees/Plaintiffs (Ridel Samuel on behalf of Adelma Libao Samuel) moved for summary judgment on their claims. The High Court did not rule on the motion for summary judgment but referred the case to the TRC for trial. The following question was referred to the TRC:

> As between Adelma Libao Samuel and Aldia Langrine Langinbelik, and those claiming through them, who under the customary law and traditional practice of the Marshall Islands is the proper person to hold and exercise [the] *Iroij Edrik*, *Alap*, and *Senior Dri Jerbal* rights and title on and over Monkut Weto, Djarret Island, Majuro Atoll, Marshall Islands?

A trial was held before the TRC on August 8, 14 and 15, 2019. Appellee Ridel Samuel's theory of the case, supported by his testimony and exhibits, was that: (1) Monkut was *Immon Ninnen* land passed from Laion, a male, to his daughter, Likaulik.(2) Under a "special arrangement" among family members, Likaulik passed the *Iroij Edrik, Alab* and *Senior Dri Jerbal* rights on Monkut to her older brother, Litakdrikin, with the understanding that the rights

[3] Exhibit D-8 "Ruling on Motion to Dismiss and Judgment," dated December 16, 1975.
[4] High Court Civil Action No. 2018-191.
[5] High Court Civil Action No. 2018-195.

would be held by Likaulik's only child, Lomae, before passing back to Litakdrikin's children as *Ninnen.* Ridel Samuel maintained that the transfer from Likaulik to Likakdrikin's children was approved by the *Iroijlaplap,* Jebdrik Lokotwerak. (3) After the death of Lomae and the death of Litakdrikin's children, the land became *bwij* land under a new *bwij* descending from Lijuiar, Litakdrikin's female child with offspring. (Testimony of Ridel Samuel and Exhibit A). Plaintiff Samuel's expert on custom, Belmar Graham from the Office of *Kajin* and *Manit* (Language and Custom) supported this custom of the land becoming *bwij* land upon the establishment of a new *bwij* from Litakdriken's female child with offspring. (4) After the death of Lijuiar, Bartimius, who was Lijuiar's son, inherited the rights to Monkut from her. (5) After Bartimius' death, the rights to Monkut passed to his younger siblings (Bin, Jorrak, and Watak). (6) After the deaths of Bin, Jorrak and Watak, the rights passed to the children of Neri, the oldest daughter of Lijuiar with offspring and the older sister of Bartimius. (6) Neri's oldest living child was Aldema Samuel. As the oldest surviving member of the *bwij,* Aldema Samuel is the proper person to hold the relevant titles to Monkut. Appellee Samuel argued that the rights to Monkut do not pass to the children of Bartimius, as they are *bototok* ("blood") descendants of a male.[6]

Appellant Aldia Langrine Langinbelik's theory of the case, supported by her testimony and that of Russell Langrine, was that (1) Monkut weto was *Imon Ninnen* from Laion to his daughter, Likaulik. (2) Upon Likaulik's death, the land passed to her son, Lomae. (3) After Lomae's death, the rights to Monkut passed down to his adopted son, Bartimius (Lijuiar's natural son) as *Imon Ninnen.* (4) Upon the death of Bartimius, the rights went to his son Barwell. (4) The rights then went from Barwell to his eldest daughter, Appellant Aldia Langinbelik. At trial, Appellants relied on a recorded oral Kalimur (Defendant's Exhibit D-12) transferring his rights

[6] *See* "Opinion & Answer of the TRC," THE PARTIES' CONTENTIONS, pp. 1-2.; see also, "Judgment" August 5, 2020, pp. 2-3.

to his son Barwell. Aldia Langinbelik, however, did not establish that anyone from Plaintiff Samuel's side of the family was present at the recording or knew about it.[7]

The TRC issued its "Opinion and Answer of the Traditional Rights Court" on November 6, 2019. The TRC concluded that as between Adelma Libao Samuel and Aldia Langrine Langinbelik:

> Adelma Libao Samuel is the proper person to hold the rights of *Iroij Edrik* and *Alab*, and Aldia Langrine Langinbelik is the proper person to hold the right of a *Senior Dri Jerbal*.[8]

The TRC found the "applicable customary law and traditional practice" determinative of the parties' rights were:

1. *Imon Ninnen*- A land that an *Alab* or the head of the clan gives to his children, with the approval of the *Iroijlaplap* and the clan members.
2. *Jidrak in Bwij* – A place where a male who is a descendent of a male is an *Alab*, and when a female is born and have children, then a new *bwij* is established. It can also be where a *bwij* becomes extinct, then the *botoktok* reign as *Alab*, however, if a female is born and have children, a new *bwij* is established and the *Alab* rights goes to the children of the female.

Relying on the testimony and exhibits, the TRC reasoned (1) "Monkut weto was an *Imon Ninnin* by Laion to his children," including his daughter Likaulik. The TRC relied, in part, on Plaintiff's Exhibit A and Defendants' Exhibit D-1 (*memenbwij* or genealogy charts) which show that Monkut weto was an *Imon Ninnen* given by Laion to his daughter, Likaulik. (2) Relying on Plaintiff's Exhibit H (Affidavit of Bartimius given in CA 317), the TRC found that Likaulik later gave the rights to her elder brother, Litakdrikin, as *Imon Ninnen* for the children of Litakdrikin, with the consent of *Iroijlaplap* Jebdrik. The TRC noted "[h]owever, before the rights were given to the children of Litakdrikin, the son of Likaulik, namely Lomae, rightfully held the rights on

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[7] *Id.*

[8] "Opinion & Answer of the TRC", Summary Answer, p. 2.

Monkut weto first because he is a descendant of the *bwij*." (3) Referencing Exhibit D-3, a 1958 Land Determination, the TRC found that during the time Lomae was the *Iroij Edrik*, Jiaur was the *Alab* and Bartimius was the *Dri Jerbal*. The TRC explained "this clarifies the fact that is taken from both genealogy charts that Monkut was an *Imon Ninnen*, beginning with Likaulik from her father, Laion, and later to Litakdrikin and his children from Likaulik. This is evident because if it were only for Bartimius from his adoptive father, Lomae, then Jiaur would not have been an *Alab* and Bartimius a *Dri Jerbal* as shown on the 1958 land determination. This is also in accordance with Marshallese custom *Imon Ninnen* goes to the children of the male and his descendants only with the consent of the *Iroijlaplap* and the members of the clan (*bwij*). The evidence shows that in 1958, Jiaur the son of Litikdrikin and the brother of Lomae, held the rights of *Alap* and Bartimius the *Dri Jerbal*." (4) Based on the parties' genealogy chart "it is right and proper for Bartimius to hold the rights since he is the son of Lijuiar, whom the *bwij* was reformed. Defendant's Exhibit D-6, Bartimius shows that he inherited his rights on Monkut weto from his mother, Lijiuar, and not from Lomae." (5) The TRC found that the oral kalimur where Bartimius bequeathed the rights to his son Barwell lacked evidence that showed clan consent and that no member of Samuels's family were present to witness that will. The TRC explained that under Marshallese custom, "the clan should have been informed since Monkut was *Imon Ninnen*. This is equally true if Lomae had bestowed his adoptive son (Bartimius) the rights on Monkut weto, then the clan should have been informed."[9]

A Rule 9 Hearing was held on May 20, 2020, and the High Court issued its "Judgment" on August 5, 2020. The High Court adopted the TRC's "Opinion and Answer" finding a sufficient factual basis for its determination and that the TRC's view of the evidence was permissible.

[9] "Opinion & Answer of the TRC," pp. 4-5.

Accordingly, the High Court decreed that [a]s between the parties, and those claiming through them, under the customary law and traditional practices of the Marshall Islands, that "the proper person to hold and exercise [the] *Iroij Edrik* and *Alap* rights and title on and over Monkut Weto, Djarret Island, Majuro Atoll, Marshall Islands is Adelma Libao Samuel, and the proper person to hold and exercise *Senior Dri Jerbal* rights and title on and over Monkut Weto, Djarret Island, Majuro atoll, Marshall islands, is Aldia Langrine Langinbelik."[10]

In reaching its judgment, the High Court thoroughly discussed the evidence relied upon by the TRC in reaching its conclusions as well as Appellants' objections to that evidence. The High Court noted that Plaintiff's Exhibit H was an "Affidavit of Bartimius" in Trust Territory High Court Case No. 317. In that Affidavit, Bartimius swore that (1) Minkut (Monkut) was *ninnin* land given to Likaulik to hold the rights of *Iroij Edrik, Alap* and *Dri Jerbal;* (2) Likaulik gave the land to her brother Litakdrikin; and (3) *Iroijlaplap* Jebdrik reaffirmed the rights were given to Litakdrikin and his children. The High Court observed that "[h]ere, defendant Langinbelik's grandfather gives evidence that greatly undermines her claim and support plaintiff Samuel's claim."[11] Defendant's Exhibit D-3 (consisting of the 1958 land determination Order of Proceedings; a Determination of Ownership and release and a listing of wetos in Djarret) was also noted to be particularly damaging to Appellants' case. The High Court explained:

> [T]he order concludes that Monkut's *Iroij Edrik* was Lomae (Likaulik's son), that the *Alap* was Jiaur (one of Litakdrikin's sons, younger than Bartimius mother Lijuier), and that the *Dri Jerbal* was Bartimios (a.k.a. Bartimius). As the TRC noted, if Monkut only belonged to Lomae and then to Bartimius as Lomae's adopted son, Jiaur would not have been listed as the *Alap*. TRC Opinion and Answer, at 4. As Bartimius was present and gave testimony at Monkut land determination proceeding, he was bound by it.[12]

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[10] "Judgment," pp. 11-12.
[11] *Id.* at p. 4.
[12] *Id.* at pp. 4-5.

Defendant's Exhibit D-6 was Bartimius' Motion For Leave to Amend Answer in CA No. 317. In that Exhibit, defendant/Appellant's grandfather's counsel stated that Bartimius is the successor of Lijuear (a.k.a. Lijuiar), his mother, as the *Iroij Edrik* of Monkut, not from his adopted father Lomae.[13] The High Court again noted that this Exhibit offered by Defendants/Appellants cuts against their theory of the case.

Regarding Appellant Langinbelik's claim of the oral *kalimur* or conveyance of the rights to Monkut from Lomae to Bartimius to Barwell, the TRC found that there was no evidence that Lomae informed his clan that he was giving Monkut to Bartimius as required by custom. Similarly, Bartimius' attempt to orally transfer Monkut to Barwell (Defendants' Exhibit D-12) was not effective because Monkut was *Imon Bwij* of Lijuiar's children under the custom of *Jidrak in Bwij* and there was a lack of evidence that Bartimius consulted with his clan (i.e. the other descendants of Lijuiar) and no members of the plaintiff's family were present.[14]

At the Rule 9 Hearing, Appellant argued the TRC erred in relying on Plaintiff's Exhibits H, I, and J, which confirm the rights of Litakdrikin's descendants to Monkut. The High Court found Appellants' objections were unfounded for at least three reasons: (1) the TRC Opinion and Answer did not expressly rely on Exhibits I and J. Instead, the TRC relied on Defendant's D-6, (Bartimius January 1975 Motion for Leave to Amend Answer in CA 317) which supports Appellee's Samuel's claims, not Appellant's Langinbelik's claims; (2) since the TRC admitted defendant Langinbelik's Exhibit D-6 into evidence, defendant Langinbelik cannot complain that the TRC admitted other documents from that same case, CA 317. The High Court held that the Court could take "judicial notice" of those other documents as part of the Court's file; and (3) Plaintiff's Exhibits H, I, and J are relevant to the questions before the TRC. Under Section 309 of

[13] *Id.* at p. 5.
[14] *Id.*

the Traditional Rights Court (Composition and Appointments) Act 1985, 27 MIRC 309 "[t]he Court may admit any evidence which is reasonably relevant to the question under its consideration."[15]

The High Court concluded there was a sufficient factual basis for the TRC's determination and that the TRC's view of the evidence was permissible leaving the High Court with no "firm and definite" conviction that the TRC made a mistake even though others might have settled the matter differently. The High Court therefore adopted the opinion and answer of the TRC.[16]

Appellants timely appealed. On appeal, Appellants raise numerous objections to the evidence admitted and considered by the TRC. They claim the trial courts erred in making its factual findings without supporting or corroborating evidence and that the High Court erred in not ruling on Appellee's motion for summary judgment. As discussed below, we find Appellants specifications of error lack merit. We also find that the trial courts findings are supported by substantial evidence and are not "clearly erroneous." We therefore AFFIRM the High Court's judgment.

III. ISSUES ON APPEAL

We state the issues on appeal as framed by Appellant *verbatim*:[17]

1. Was the TRC and the High Court wrong in holding in favor of Plaintiff for the *Iroijedrik* and *Alab* by relying on Affidavits of Bartimius (Exhibit H), without supporting evidence and concluded that (a) there was a special arrangement which distorts the normal customary succession of rights, and (b) Bartimius had exercised rights and titles from her biological mother?

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[15] *Id.* at p. 7
[16] *Id.* at pp. 8-12.
[17] As the issues as presented in Appellant's brief are so replete with errors, they are simply repeated verbatim without any error references.

2. Was the High Court correct by relying on the principle of *Imon Ninnen*, without supporting evidence that shows (a) Lijuiar had exercised those three rights on Monkut on *Immon Ninnen* from her father, and (b) that all the children of Lijuiar had exercised the *jidrak in bwij* rights and titles on Monkut and not just Bartimius Langrine?
3. Was the High Court and TRC wrong by relying on Affidavit of Bartimus Langrine, Plaintiff's Exhibit H as Hearsay and is inadmissible in contrary to the MI rules of evidence (Rule 801)?
4. Was the High Court abuse its discretion by not ruling on the Appellee-Plaintiff's Motion for summary judgment, and decided to referred the matter TRC for trial, which required the Appellee-Plaintiff to produce evidence that testify to the truth of the matter rather than relying on the Affidavit of Bartimius Langrine (Exhibits H, I & J)?
5. Was the TRC wrong by taking judicial notice of Plaintiff's Exhibit H, I and J in contrary to the Rules of Evidence and undermines the essences of judicial process of trial and of which the Defendants has rights to examined witnesses in relation to the claims?
6. Was the High Court and TRC wrong in finding in favor of Plaintiff by interpreting the Defendant's Exhibit D-3 not supporting Defendant's claim of *Ninnin*, and whether D-3, supports the Appellee-Plaintiff's argument of *Jidrak in Bwij*?
7. Was the TRC wrong in relying on the sole testimony of Riddle Samuel without reviewing the evidences and testimony of the Defendant's witnesses which supports it's claim of *Ninnin*?

Given these specifications of error Appellants apparent contention is that the TRC's and High Court's decisions are "clearly erroneous" because those courts relied on inadmissible evidence.

IV. APPELLEE'S MOTION TO DISMISS APPEAL IS GRANTED.

Before reaching the merits of the instant appeal, we must address Appellee's motion to dismiss this appeal for Appellants' failure to timely file its opening brief.

On December 7, 2020, Appellant filed a "Stipulated Motion for an Enlargement of Time for the Filing of Appellant's Opening Brief" until December 18, 2020. The requested enlargement of time was granted by a single judge procedural order dated December 8, 2020. Appellant failed to file its opening brief by the stipulated deadline. Instead, Appellant filed its opening brief six days late on December 24, 2020. The opening brief was unaccompanied by a motion to accept late filing as required by SCRP Rule 26(b) which provides:

> Enlargement of Time. A justice of the Supreme Court for good cause shown upon motion may enlarge the time prescribed by these rules for doing any act or may permit an act to be done after the expiration of such time....

Appellants' late opening brief was accepted for filing despite not being accompanied by a motion to allow a late filing. The late filing was not brought to this Court's attention as contemplated by Supreme Court Rules of Procedure, Rule 30 which provides, in relevant part:

> When the brief for appellant is not filed within the time required, the clerk of the Supreme Court shall forthwith give notice to counsel for the parties that the matter will be called to the attention of the Court on a day certain for such action as the Court deems proper, and the appeal may be dismissed.

Appellee objects to the late-filed opening brief and seeks an order dismissing this appeal for "Appellant's failure to timely file its opening brief without good cause."[18] Appellant did not respond to Appellee's argument in its reply brief.

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[18] Answering Brief, p. 4.

An extension of time in which to file a brief is permitted by SCRP, Rule 26(b), upon motion showing "good cause." The "good cause" standard has been liberally construed by the courts. "'Good cause' is a non-rigorous standard that has been construed broadly across procedural and statutory contexts." *Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1259 (9th Cir. 2010)(discussing extension of time under FRCP 6). The Federal Rules of Civil Procedure are "to be liberally construed to effectuate the general purpose of seeing that cases are tried on their merits." *Ahanchian, supra,* at 1258. The same liberal construction afforded the rules of civil procedure should be given the appellate rules to assure that appeals are determined on their merits and not procedural technicalities which do not affect the integrity of the proceedings.

It would have been a simple matter for Appellant to either file a motion requesting an additional extension of time or to have filed a motion to accept its late filed brief. Appellant did neither. Appellant's failure to avail itself of either option is unexplained. When Appellee requested dismissal in its answering brief, Appellant did not respond to that request in its reply brief. Because Appellant makes no effort to excuse its late filing we cannot find "good cause" excusing the late filing.

We also cannot find "excusable neglect" in Appellant's late filing under the liberal four-part test articulated by the United States Supreme Court in *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 395 (1993). In determining whether a party's failure to meet a deadline constitutes excusable neglect, courts must examine: (1) the danger of prejudice to the opposing party; (2) the length of the delay and its potential impact on the proceedings; (3) the reason for the delay; and (4) whether the movant acted in good faith. The Ninth Circuit has applied these four *Pioneer* factors to the Federal Rules of Civil Procedure, Rules 6(b) and 60(b) as well as the Federal Rules of Appellate Procedure. *See, e.g., Comm. For Idaho's High Desert,*

Inc. v. Yost, 92 F.3d 814, 825 n. 4 (9th Cir. 1996)(concluding that the *Pioneer* analysis applies to Appellate Rule 4(a)(5))(citing *Reynolds v. Wagner*, 55 F.3d 1426, 1429 (9th Cir. 1995)).

Although Appellee does not identify any prejudice attributable to Appellant's late filing and the length of delay did not seriously impact the progression of this case, the final two factors of the *Pioneer* four-factor test weigh against a finding of "excusable neglect." We cannot speculate as to the reason for the delay or whether Appellant acted in good faith when Appellant does not even attempt to explain its late filing. Balancing these *Pioneer* factors together we conclude that dismissal of this appeal is appropriate. We therefore GRANT Appellee's motion to dismiss appeal for late filing of Appellants' opening brief. We nevertheless proceed to discuss other dispositive deficiencies in this case and the merits of this appeal because of the significance of the issues raised.

V. STANDARD OF REVIEW

Matters of law are reviewed *de novo*. *Lobo v. Jejo*, 1 MILR (Rev.) 224, at 225 (1991). Mixed questions of law and fact are also reviewed under the *de novo* standard. *Samson, et al v. Rongelap Atoll LDA*, 1 MILR (Rev.) 280, 284 (1992).

Findings of fact are reviewed under the "clearly erroneous" standard. *Dribo v. Bondrik, et al*, 3 MILR 127, 131 (2010); *Abner v. Jibke, et al*, 1 MILR 3, 5 (1984). MIRCP, Rule 52(a)(6) provides:

> Findings of fact, whether based on oral or other evidence, must not be set aside unless clearly erroneous, and the reviewing court must give due regard to the trial court's opportunity to judge the witnesses' credibility.

A finding of fact is "clearly erroneous" when review of the entire record produces a definite and firm conviction that the court below made a mistake. *Lobo v. Jejo, supra*, at 225-6 (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*. *Bulele v. Morelik*, 3 MILR 96, 100 (2009). We will not interfere with a finding of fact if it is supported by credible evidence, must refrain from reweighing the evidence and must make every reasonable assumption in favor of the trial court's decision. *Kramer & PII v. Are & Are*, 3 MIR 56, 61 (2008). We are required to defer to the factual findings of the court(s) below even if we would have decided the case differently and even if the evidence would make another conclusion more plausible. *Kabua v. Malolo*, Supreme Court Case No. 2018-008, Slip Op. 12/10/21; *see also Anderson v. Bessemer City*, 470 U.S. 564, 573 (1985).

In cases involving customary issues decided by the Traditional Rights Court, the Constitution requires that the High Court (and, therefore, this Court on review of such decision) give "substantial weight" to the Traditional Rights Court's decision. Constitution, art. VI, sec. 4(5). "The High Court's duty is to review the decision of the Traditional Rights Court and to adopt that decision unless it is clearly erroneous or contrary to law." *Abija v. Bwijmaron*, 2 MILR 6, 15 (1994).

Determinations of custom by the Traditional Rights Court are ordinarily factual issues entitled to deference on review unless the custom has attained the status of law through enactment of statute or a final Supreme Court decision. "Every inquiry into custom involves two factual determinations. The first is: is there a custom with respect to the subject matter of the inquiry? If so, the second is: what is it? Only when the ascertained custom is incorporated in a statute or has formed the basis of a final court decision does it become law in the modern sense." *Lebo v. Jejo, supra,* at 226; *Zion v. Peter*, 1 MILR (Rev.) 228, 231 (1991); *Kabua v. Malolo, supra.*

We review the trial court's decision to admit evidence under an "abuse of discretion" standard. *Elmo v. Kabua,* 2 MILR 150, 154 (1999); *RMI v. ATC, et al (4)*, 2 MILR 181, 187 (2002); s*ee also, Kumho Tire v. Carmichael*, 526 U.S. 137, 152 (1999); *Boyd v. City & County of San Francisco*, 576 F.3d 938, 943 (9th Cir. 2009). The "abuse of discretion" standard is highly deferential to the trial court's evidentiary rulings. In the absence of "plain error" we will find no abuse of discretion when the trial court has not been called upon to exercise its discretion by timely, specific objection to evidence. *See* RMI Rules of Evidence, Rule 103; *see also G.P. v. Cabinet for Health & Family Services*, 572 S.W.3d 484, 490 (Ky 2019)(A "nonruling is not reviewable when the issue has not been presented to the trial court for decision. *citations omitted.* The underlying principle is to afford an opportunity to the trial court, before or during the trial or hearing to rule upon the question presented.")

V. DISCUSSION

A. Appellant's Evidentiary Objections.

Appellants offer a long laundry list of supposed errors by the trial court(s) in admitting and considering evidence including Exhibits H, I, J, and D-3. They further contend the trial courts erred in considering hearsay evidence without corroborating evidence and "in relying on the sole testimony of Ridle Samuel without reviewing the evidence(s) (sic) and testimony of Defendants' witnesses which supports its claim to *Ninnin.*"[19]

RMI Rules of Evidence, Rule 103(a) provides in relevant part:

> Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected, and
> (1) Objection. In case the ruling is one admitting evidence, a timely objection or motion to strike appears of record, stating the specific ground of objection, if the specific ground was not apparent from the context ...

[19] *See* Notice of Appeal

It is well settled that objections to the admission of evidence are waived if not specific as to the grounds for objection and timely made to the trial court. *See* E.R. 103(a); *Tam Lam v. City of Los Banos,* 976 F.3d 986, 1006 (9th Cir. 2022) citing *Marbeled Murrelet v. Babitt,* 83 F.3d 1060, 1067 (9th Cir. 1996)("By failing to object to evidence at trial and request a ruling on such an objection, a party waives the right to raise admissibility issues on appeal."); *see also, generally,* 75 Am.Jur.2d Trial Sec. 335 ("A party waives its objection to the admissibility of evidence by failing to object in a timely and specific manner...Upon failure to object, the evidence is admissible and may be considered and given probative effect. Also, by failing to object at trial, a party waives the right to appellate review of the admission of the evidence or testimony except with regard to plain error.")

The general rule where evidence is admitted without objection is that it may be properly considered in determining the facts, the important question being the weight to be given such evidence. *See, e.g., Matter of Doe,* 396 P.3d 1162, 1165 (ID. 2017)(discussing the Idaho Rules of Evidence which are modeled after and are substantially identical to the FRE and RMI Rules of Evidence). The majority view is that hearsay evidence admitted without objection "is as strong as any other legally competent evidence." *Matter of Doe, supra,* citing 29A Am.Jur.2d Evidence, Section 1367 (2008). The appellate court, however, has discretion and may review a claim of erroneous admission of evidence under the "plain error" standard even if evidence is not timely objected to below. *See* E.R. 103 (e). "Plain error" is defined as (1) an error; (2) that is plain; (3) affects substantial rights; and (4) seriously affects the fairness, integrity or public reputation of judicial proceedings. *See, e.g., United States v. Blinkinsop,* 606 F.3d 1101 (9th Cir. 2010).

Bearing these principles in mind we address Appellants' challenges to the evidence *seriatim.*

1. Exhibit H ("Affidavit of Bartimius Langrine.")

Appellants contend the High Court and TRC erred by "by relying on the Affidavit of Bartimius Langrine" (Plaintiff's Exhibit H) because it is "inadmissible hearsay" under the RMI Rules of Evidence, Rule 801.[20]

We find Appellants' objection to the admission of Exhibit H on grounds of hearsay has been forfeited and/or waived by (1) Appellants' failure to refer us to the record where timely and specific objection was made to the introduction of this exhibit as required by the Supreme Court Rules of Procedure (SCRP), Rule 28; (2) our independent review of the record indicates the objection has also been waived by Appellants' failure to raise a timely and specific objection before the TRC as required by RMI Rules of Evidence, Rule 103; (3) Appellants are estopped from claiming error in admission of this exhibit because Appellants themselves introduced this exhibit as part of their Exhibit D-7 without any request for its "limited use" by the trial court for non-hearsay purposes; and (4) there was no "plain error" in the admission and consideration of this exhibit. Further, (5) we find the TRC can consider any relevant evidence giving such evidence whatever weight it deems appropriate. As noted by the High Court, that evidence is relevant and admissible under Section 309 of the "Traditional Rights Court (Composition and Appointments) Act 1985," 27 MIRC 309.

Supreme Court Rules of Procedure (SCRP) Rule 28 (b)(4) requires an Appellant's opening brief to set forth the points relied upon and

> ...show where in the record the alleged error occurred and where it was objected to and, where applicable, the following: (A) When the point involves the admission or rejection of evidence, there must be included a quotation of the grounds urged at trial for the objection and the full substance of the evidence admitted or rejected."

[20] Notice of Appeal; Opening Brief, p. 6.

Rule 28 further provides "[p]oints not presented in accordance with this section will be disregarded, except that the Supreme Court, at its option, may notice a plain error not presented."

Appellant's briefing does not reference the record where a hearsay objection was made under Rule 801 to the admission of Plaintiff's Exhibit H as required by SCRP Rule 28. Likewise, there is no reference to an objection on grounds of relevance to the admission and consideration of that exhibit. It is not the appellate court's duty to scour the record to cure deficiencies in a party's briefing. *See, e.g. Doeblers' Pa. Hybrids, Inc. v. Doebler*, 442 F.3d 812, 820 n. 8 (3rd Cir. 2006) quoting *United States v. Dunkle*, 927 F.2d 955, 956 (7th Cir. 1991)("Judges are not like pigs, hunting for truffles buried in the record.") If Appellants cannot provide a citation to the record with specificity, they cannot expect this Court to search the record and make their argument for them. *See, e.g., Ally Capital Corp. v. Rader,* 2022 WL 17098324 (WI. App. 2022)("[Appellant] fails to adequately support his arguments with facts or citations to the record. Furthermore, his arguments on appeal are undeveloped and lack clarity. We will not abandon our neutrality to develop or enhance [Appellant's] arguments for him.") Because Appellants' briefing does not cite the record where a specific, timely hearsay objection was made to the introduction of Exhibit H, SCRP Rule 28 directs us to disregard the issue. We see no reason to depart from the intent of that Rule.

Further, while we have no obligation to scour the record to find support for Appellants' contentions on appeal, our independent review of the record indicates no such objection was made before the TRC. Because Appellants did not timely object to the admission of Exhibit H before the trial court on grounds of hearsay that objection has been waived under ER 103(a).

We further find Appellants are estopped from claiming error in the lower courts' admission and consideration of Exhibit H because Appellants themselves moved for admission

of Exhibit H which is part of their Exhibit D-7 into evidence without any request that the use of that exhibit be limited to a non-hearsay purpose. Appellants argue their admission of Exhibit D-7 into evidence "was purposefully to prove to the TRC that CA 317 was dismissed on laches but not on the determination of the rights and titles to Mwinkut (Monkut) as clearly stated in D-10. The admission was however not to offer to prove the truth of the subject matter, which requires adducing of evidence."[21]

We are not persuaded by Appellants' argument for two reasons: (1) first, Appellants have not cited us to the record where they offered their Exhibit D-7 for the "limited purpose" of proving that CA 317 was dismissed on grounds of laches; and (2), our independent review of the record reveals no request for use of that exhibit for a "limited purpose" was made. We further agree with the High Court that Appellants offering of a portion of the prior record in CA 317 into evidence means that they cannot be heard to complain as to the introduction of other portions.[22]

RMI Evidence Rule 105 provides:

> When evidence which is admissible as to one party or for one purpose but not admissible as to another party or for another purpose is admitted, the court, upon request, shall restrict the evidence to its proper scope and in the case of a jury trial instruct the jury accordingly.

It is the duty of a party offering an exhibit for a "limited purpose" to advise the trial court of that purpose. If a party fails to request a limiting instruction, he may not complain on appeal if the evidence is admitted without limitation. *See, e.g., United States v. Christian*, 786 F.2d 203, 213 (6th Cir. 1986); *United States v. Birdwell*, 583 F.2d 1135, 1140 (10th Cir. 1978); *see also, Roach v. Snedigar*, 72 NW2d 427, 430 (S.D. 1955)("...[W]hen evidence that is apparently

[21] Appellants' Reply Brief, p. 6.
[22] Judgment, p. 7.

inadmissible is offered for a limited purpose, the proponent of the evidence should have the burden of making clear to the court his reason for the offer.").

Appellants do not provide a citation to the record where they introduced their Exhibit D-7 for the "limited purpose" of demonstrating that the prior civil action was dismissed on grounds of laches. Because there is no citation to the record, SCRP, Rule 28 instructs us to disregard this point raised by Appellants. We again see no reason to depart from the intent of that Rule.

Nevertheless, we have independently reviewed the record and find the trial court was not advised that Appellants were offering Exhibit D-7, which includes Exhibit H, for a "limited purpose." The record reveals that Appellants moved Exhibit D-7 (which included Exhibit H) into evidence without any request limiting its use for a non-hearsay purpose. The following exchange before the TRC occurred:

> Q (Waiti): May I retrieve that? And I will show you D7 as well. Correct.
> (Beero): Motion to dismiss.
> Q: Can I show you quickly D7, Your Honor?
> Court: you may.
> Q: So just read the title of that D7 and tell me what that D7 is?
> A (Witness Russell Langrine): Motion to Dismiss.
> Q: So that's a motion to dismiss the case against Jeltan Lanki,is that correct?
> A: Yes.
> Q: Your Honor, I would like to just move this. This is a court record and I just want to move for admission of that record.
> Court: Okay, any objections?
> Ms. Beero: No objections.
> Court: Defendant Exhibit D7 is admitted.

[*See* Transcript of Proceedings Before the TRC, p. 77.]

The following exchange later occurred regarding admission of Plaintiff's Exhibit H, which is part of Defendant's D-7:

> Ms. Beero: Also, Plaintiff's Exhibit H was the – which is the Affidavit of Bartimius Langrine in Support of the Motion to Dismiss. I think it has already gone into evidence as well through the defendants. And I think it went in as part of D7 because D7 according to the defendants is a copy of a motion to Dismiss Plaintiff's case.
> Court: Plaintiff Exhibit H is Defendant's Exhibit D7.

Beero: Now Plaintiff's Exhibit I is part of the court proceedings in Civil Action No. 317. This is a record of a pre-trial conference on June 12, 1967 by District Judge Kabua Kabua, the English version.
Court: Any objection, Mr. Waiti?
Mr. Waiti: No objection.
Court: So admitted.
[Transcript of Proceedings Before the TRC, pp. 161-162.]

What is apparent from the record is that Appellants moved Exhibit H as part of their Exhibit D-7 into evidence without any request limiting its use for a non hearsay purpose and/or for the purpose of only showing that CA 317 was dismissed on grounds of laches. Appellants cannot now claim error if that exhibit was relied upon as evidence for some other purpose. It is not reasonable for a party to introduce evidence without requesting the trial court to use that evidence for an unidentified non-hearsay "limited purpose" and then fault the trial court for consideration of that evidence for a broader purpose. To the extent that the trial courts may have erroneously relied on Exhibit H the fault lies with Appellants. ""It is axiomatic that a party who himself offers inadmissible evidence is estopped to assert error in regard thereto." *See, e.g., People v. Williams*, 44 Cal.App.3d 883, 912 (Ca. 1988).

Finally, we do not find "plain error" by the trial courts' admission and consideration of Exhibit H. The alleged error was not "plain" because Appellants did not object to the admission of that Exhibit and hearsay evidence can be used as substantive evidence in the absence of objection. *See, Matter of Doe, supra;* 29A Am.Jur.2d Evidence, Sec. 1367 (2008); *see also, e.g., State v. Jackson*, 655 N.W.2d 828, 833 (MN 2003).

2. Exhibit I (Record of Pre-trial Conference in Civil Action No. 317)

Appellants claim the TRC (and/or High Court) erred by taking "judicial notice" of Exhibit I. Appellants do not cite us to the record where the TRC stated it was taking judicial

notice of this Exhibit and Appellants do not cite us to the record where they posed a timely, specific objection to the admission and consideration of Exhibit I. Consequently, Appellants claim of error in admitting Exhibit I is forfeited under SCRP, Rule 28.

Furthermore, our independent review of the record indicates Appellants waived any objection they may have had to the admission of Exhibit I because they specifically consented to its admission. The Transcript of Proceedings (TRC Trial) p. 161 reveals the following exchange:

> Ms. Beero: Now Plaintiff's Exhibit I is part of court proceedings in Civil Action Number 317. This is a record of a pre-trial conference on June 12, 1967 by District Judge Kabua Kabua, the English version.
> Court: Any objection Mr. Waiti?
> Mr. Waiti: No objection.

Because Appellants had no objection to the admission and consideration of Exhibit I we need not address the issue of whether there was any error by the TRC in taking "judicial notice" of this Exhibit. Even so, we also find no error by the High Court in holding that the introduction of part of the prior court record opens the door to the court admitting other portions of the record of that prior proceeding.[23] *See* RMI Evidence Rule 106.

3. Exhibit J (Notes from CA 317)

Appellants argue the TRC erred in taking "judicial notice" of Exhibit J. Review of the transcript, however, indicates Appellants had no objection to the admission of this exhibit. The Transcript of Proceedings (TRC Trial) pp. 161 -162 documents the following exchange:

> Ms. Beero: And J is also from the folder, Civil Action number 317, which appears to be notes on the proceedings therein. Notes as to who says what. Loton and Jeltan and Bartimius.
> Court: Any objection Mr. Waiti?
> Mr. Waiti: [No audible response].
> Court: On Plaintiff Exhibit G – J- letter J.

[23] Judgment, p. 7. "Second, since the TRC admitted into evidence defendant Langinbelik's Exhibit D-6 from CA 317, defendant Langinbelik cannot complain that the TRC has admitted into evidence other documents from the same case, CA No. 317. As part of the Court's file, the Court can take judicial notice of them."

> Mr. Waiti: No objection, Your Honor. I just want the court to take judicial notice on the fact that – I mean – their argument is the court has reversed the decision, and with the court rely on – give weight on some of these documents. But that I leave that to the court to -yeah-.
> Ms. Beero: Yes.
> Court: Yes, they'll all be admitted with substantial weight.

This exchange is significant because (i) Appellants do not object to the admission of Exhibit J, (iii) they request the court to take judicial notice of the exhibit and (iii) do not voice an objection to the TRC affording substantial weight to that exhibit. Appellants cannot argue the trial courts erred in taking judicial notice of this exhibit when they requested that judicial notice be taken. We find no error by the TRC in admitting and affording weight to this exhibit.

4. The issue of "corroboration."

Without citing any supporting authority, Appellants claim the TRC erred in considering Exhibit H "without supporting evidence."[24] Appellants also argue the TRC "heavily relied on the testimony of Ridel Samuel which is unsubstantiated"[25] and "choose to rely on the single testimony of Ridel Samuel without corroborating his evidence."[26]Appellees counter that the TRC and High Court did not rely solely upon Exhibit H in making its findings but also Appellants' Exhibit D-1, D-3 and the parties' *memenbwij*, Exhibit A.[27]

Corroborative, or corroborating, evidence has been defined as "evidence supplementary to that already given and tending to strengthen or confirm it. Additional evidence of a different character to the same point." *See, e.g., Jones v. State*, 728 So.2d 788, 791 (Fla. 1999) citing Blacks Law Dictionary, p. 344 (6th ed. 1999). We find that Exhibit H is sufficiently corroborated, strengthened and consistent with the other exhibits and testimony relied upon by the TRC in

[24] Opening Brief, p. 12.
[25] Opening Brief, p. 18; Reply Brief, p. 10.
[26] Id.; Reply brief, p. 12.
[27] Answering Brief, p. 8.

making its findings. Ridel Samuel's testimony also corroborates, confirms or supports the matters asserted in Exhibit H.

Furthermore, and more importantly, under the TRC Rules of Procedure, Rule 15, and Section 309 of the "Traditional Rights Court (Composition and Appointments) Act 1985," 27 MIRC 309, the TRC may consider any evidence which is relevant to the question under its consideration. Exhibit H and the other exhibits, as well as the testimony of Ridel Samuel, were relevant to the issues before the TRC. There is no requirement imposed by statute, court rule or decisional authority that relevant evidence be "corroborated" in proceedings before the TRC. We find no error by the trial courts in considering these exhibits and the testimony of Ridel Samuel.

5. The High Court did not "abuse its discretion" by not ruling on Appellee's motion for summary judgment and referral of this case to the TRC.

Appellants claim the High Court "abused its discretion by not ruling on the Appellee-Plaintiff's motion for summary judgment and referring this matter to the TRC for trial."[28]

As we understand Appellants' argument the only options available to the High Court was to either grant or deny the motion. The refusal to grant or deny the motion was, according to Appellants, an "abuse of discretion" and "the silent refusal not to grant such order, shifts the burden on the Appellee-Plaintiff (movant of the motion) to adduce evidence at trial. The High Court's failure to substantiate evidence and relying only on Exhibit H, I, and J is an abuse of discretion." [29]

Appellants misunderstand the function of summary judgment. Summary judgment is only to be granted if there is no genuine issue of material fact and the movant is entitled to judgment as a matter of law. Rules of Civil Procedure, Rule 56. The High Court recognized that there were

[28] Notice of Appeal; Opening Brief, pp. 13-14.
[29] Opening Brief, p. 14.

issues of fact preventing a grant of Appellee's motion. Rather than issuing a written decision denying the motion the case was referred to the TRC where the case would have gone anyway upon a formal written denial of the motion.

We do not understand how Appellants were prejudiced by the "silent denial" of their opponent's motion for summary judgment and referral of the case to the TRC. The "silent denial" does not shift the burden of proof upon Appellees-Plaintiffs. Appellees already had the burden of proving their claims before the TRC which they met by producing their exhibits and testimony of Ridel Samuel and Belmar Graham at trial.

Appellants' assertion that the silent denial of the motion for summary judgment somehow shifted or imposed a greater burden upon Appellees to produce evidence at trial in addition to their Exhibits H, I, and J is simply incorrect as a matter of law.[30] The trial court does not decide issues of fact on a motion for summary judgment. It simply determines if an issue of fact exists warranting a trial. Appellees could have relied solely on their exhibits at trial without adducing additional testimony or other evidence. Instead, they offered not only their exhibits but also the testimony of Ridel Samuel and their expert Belmar Graham.

We find no abuse of discretion in the High Court's referral of this customary dispute to the TRC. Quite frankly, we are at a loss in understanding Appellant's theory that there was error, much less reversible error, by the High Court's "silent denial" of Appellee's motion for summary judgment rather than issuing a formal written denial of the motion. Either way, the case would have gone to trial before the TRC.

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[30] Appellants argue "..having referred the matter to the TRC for trial, required the Appellee-Plaintiff to produce evidence that gives preponderance weight to the case rather than relying on the same documents – otherwise, its waste of court's time to revert back to those documents. The court abuse its discretion by not ruling on Appellee-Plaintiff's motion and failed to make decision based on additional facts that is required for the contested issues other than relying on the affidavits." (emphasis added). Reply Brief, p. 7.

B. The TRC and High Court's Decisions Are Not "Clearly Erroneous."

We may only set aside findings of the trial court(s) if such findings are "clearly erroneous." It is for the trial court to make determinations of credibility of witnesses and to resolve conflicting evidence. In this case, the TRC resolved conflicting evidence in witness testimony and the documentary evidence against Appellants. We will not interfere with those determinations.

The findings of the TRC and the High Court are supported by "substantial" or "credible" evidence and are, therefore, not "clearly erroneous." The TRC was free to credit the testimony of Ridel Samuel over that of Appellants' witnesses. There was no error in the TRC and High Court considering the exhibits Appellants now challenge on appeal. The custom applicable to the facts of this case is supported by the testimony of Belmar Graham. Because the trial courts' findings and conclusions are supported by substantial evidence, we may not reverse.

VI. CONCLUSION

Appellant has failed to demonstrate "good cause" or "excusable neglect" in the late filing of the opening brief and this appeal is therefore dismissed.

Further, Appellant has failed to cite us to the record supporting its numerous claim of error as required by SCRP Rule 28(b)(4) and those points are therefore forfeited.

Our independent review of the record further reveals Appellants failed to preserve its evidentiary objections now raised on appeal by failure to raise them below by timely and specific objection as required by ER 103(a).

Finally, there is sufficient evidence in the record to support the TRC's determination of the applicable custom and the ultimate conclusion that, as between Appellants and Appellee, "Adelma Libao Samuel is the proper person to hold the rights of *Iroij Edrik* and *Alab*, and Aldia

Langrine Langinbelik is the proper person to hold the right of *Senior Dri Jerbal*" on Monkut weto. That determination is not clearly erroneous and we are required under the Constitution and our case law to give deference to that determination.

The High Court's judgment accepting the TRC's "Opinion in Answer" is therefore AFFIRMED.

Dated: 2/13/23 /S/

Daniel Cadra, Chief Justice

Dated: 2/13/23 /S/

J. Michael Seabright, Associate Justice

Dated: 2/13/23 /S/

Richard Seeborg, Associate Justice