

FILED

2010 FEB 15 PM 5: 25

SUPREME COURT
OF GUAM

IN THE SUPREME COURT OF GUAM

<p>6 RE:</p> <p>7 ADOPTION OF THE AMENDED</p> <p>8 INDIGENT DEFENSE RULE OF THE</p> <p>9 LOCAL RULES OF THE</p> <p>10 SUPERIOR COURT OF GUAM</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Supreme Court Case No. PRM 06-006</p> <p>PROMULGATION ORDER</p> <p>NO. 06-006-08</p>
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11 The Standing Committee of the Private Attorney Panel for Indigent Representation was
 12 created by the Supreme Court pursuant to Miscellaneous Rule (MR) 1.1.3 (B) of the Local Rules
 13 of the Superior Court (formerly Rule 13) for the purpose of overseeing the administration of the
 14 Private Attorney Panel. The Standing Committee recommended that amendments be made to MR
 15 1.1.3 (D), relative to allowing attorneys affiliated with an attorney who is a member of the Private
 16 Attorney Panel to participate in and appear for appointed cases without leave of court, provided that
 17 the member-attorney exercise actual supervisory control over the case.

19 The proposed amendment was sent to the members of the Guam Bar Association for a
 20 thirty-day comment period, which expired on December 30, 2009. Comments having been received
 21 and considered, the Standing Committee recommends that the proposed amendment be adopted.

23 Therefore, pursuant to the authority to "make and promulgate rules governing the
 24 administration of the judiciary and the practice and procedure in the courts of the judicial branch of
 25 Guam," 48 U.S.C. § 1424-1(a)(6), the Supreme Court hereby amends and restates MR 1.1.3(D) to
 26 read as follows, with the amended language underlined:

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1 **MR 1.1.3. MANNER OF APPOINTMENT**

2 D. Counsel appointed under these Rules shall, unless excused by order of the court,
3 continue to act for the person throughout the proceedings in this court. Appointed
4 counsel is expected to appear personally at all proceedings, with substitutions or the
5 filing of additional appearance permitted only with leave of the court. The judge
6 before whom a case is pending may, in the interest of justice substitute one appointed
7 counsel for another at any stage of the proceedings. With respect to appointed
8 counsel who is a partner, shareholder or member of a law firm, an attorney affiliated
9 with such law firm may participate and appear without leave of the court on behalf
10 of such appointed counsel in any proceeding in this court, provided, however, that
11 appointed counsel shall exercise actual supervisory control and authority over the
12 performance of such appearing attorney, and remain responsible and accountable for
13 the conduct of the case. Notwithstanding the foregoing, a judge may in his or her
14 discretion require the appointed counsel to personally appear at a particular hearing
15 should the judge deem that the circumstances of the case require appointed counsel's
16 appearance.

17 In all criminal cases, trial counsel shall advise the defendant of the right to appeal
18 and of the right to counsel on appeal. If requested to do so by the defendant in a
19 criminal case, trial counsel shall file a timely Notice of Appeal in the Superior Court
20 of Guam, and shall simultaneously file a motion for the appointment of appellate
21 counsel with the Supreme Court of Guam. A copy of the Notice of Appeal should be
22 attached to the motion for appointment of appellate counsel. Such motion shall
23 indicate whether (1) trial counsel is a member of the appellate panel, and (2) whether
24 trial counsel wishes to remain as appellate counsel. Upon the filing of such motion,
25 the Supreme Court shall issue an order appointing appellate counsel for all appellate
26 proceedings from the list of attorneys on the approved appellate panel. There is
27 therefore no requirement that trial counsel be automatically appointed as appellate
28 counsel, should an appeal be taken. Upon appointment, appellate counsel shall
represent the defendant, until the matter, including appeals or review by certiorari,
is closed; until substitute counsel has filed a notice of appearance; until an order has
been entered allowing or requiring the person represented to proceed pro se; until the
appointment is terminated by court order; or until the attorney is relieved by the
court.

23 The Rule, as amended and restated, shall apply to all actions, cases and proceedings brought
24 after the instant Promulgation Order takes effect and to all actions, cases and proceedings
25 commenced prior to the effective date hereof and still pending, except to the extent that the
26 application of the amended Rule to those pending actions, cases and proceedings would not be
27 feasible, or would work an injustice, in which event the prior valid Indigent Defense Rule,
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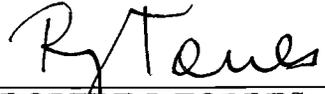
1 Miscellaneous Rule 1.1.3(D) of the Local Rules of the Superior Court, shall apply.

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SO ORDERED, this 15th day of February, 2010.


F. PHILIP CARBULLIDO
Associate Justice


KATHERINE A. MARAMAN
Associate Justice


ROBERT J. TORRES
Chief Justice