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SUPREME COURT
OF GUAM

IN THE SUPREME COURT OF GUAM

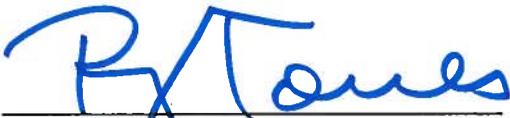
RE:)	Supreme Court Case No.
)	PRM 06-006
AMENDMENT OF CIVIL RULE 7.1 OF)	
THE LOCAL RULES OF THE SUPERIOR)	PROMULGATION ORDER
COURT OF GUAM)	NO. 06-006-14

This matter came before the court on February 22, 2013 at 9:00 a.m. for a Promulgation Hearing regarding the amendments to Civil Rule (“CVR”) 7.1 of the Local Rules of Court. The Subcommittee on Rules of Civil Procedure and Rules of Court Revisions was created for the purpose of reviewing and proposing changes to the Rules of Civil Procedure for the Superior Court of Guam and the Local Rules of the Superior Court of Guam. In response to concerns raised by members of the Guam Bar Association (“GBA”) and the trial judges, the Subcommittee met to discuss how to improve the motion practice rule found in CVR 7.1 of the Local Rules of Court and its accompanying forms.

The proposed revisions to CVR 7.1 and its related forms were circulated to the GBA members and trial judges for comment and a presentation to the GBA members was conducted on November 1, 2012. All comments received were fully considered, and where deemed appropriate by the Subcommittee, incorporated into the proposed revisions and recommended to the Supreme Court for adoption. Notice of the Promulgation Hearing was filed on February 18, 2013 and circulated to the GBA members. The public comment period having expired, the Subcommittee now recommends that the Supreme Court promulgate the proposed revisions and its related forms.

1 Upon the recommendation of the Subcommittee, and under the authority to “make and
2 promulgate rules governing the administration of the judiciary and the practice and procedure in
3 the courts of the judicial branch of Guam,” 48 U.S.C.A. § 1424-1(a)(6), the Supreme Court
4 hereby adopts the proposed revisions to CVR 7.1 and its related forms which are attached as
5 Exhibit A. CVR 7.1 and its related forms, as amended, shall be effective on Friday, March 1,
6 2013. However, prior rule CVR 7.1 shall continue to apply to any filing commenced prior to the
7 effective date of this amendment.

8 **SO ORDERED**, this 25th day of February, 2013.

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12 **ROBERT J. TORRES**
13 **Associate Justice**

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15 **KATHERINE A. MARAMAN**
16 **Associate Justice**

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18 **F. PHILIP CARBULLIDO**
19 **Chief Justice**

EXHIBIT A

CVR 7.1. Motion Practice.

(a) Applicability. The provisions of this Rule shall apply to motions, applications, petitions, orders to show cause, and all other proceedings except a trial on the merits, matters arising in civil cases assigned to the Master Calendar, and applications for a temporary restraining order, unless otherwise ordered by the court or provided by statute, the Guam Rules of Civil Procedure or the Local Rules of the Superior Court of Guam.

(b) Service of Motion and Accompanying Papers. Every motion shall be presented in writing. The motion papers shall be served on each of the parties in accordance with Guam Rule of Civil Procedure Rule 5.

(c) Moving Papers. There shall be filed and served:

(1) A Notice of Motion and Motion using CVR 7.1 FORM 1;

(2) a memorandum in support thereof containing the points and authorities upon which the moving party relies, including citations; and

(3) any affidavits or declarations under penalty of perjury sufficient to support any material factual contentions permitted by the Guam Rules of Civil Procedure.

(d) Opposition and Reply.

(1) The opposing party may within twenty-eight (28) days of the filing of the motion, file with the clerk and serve upon all parties an opposition containing:

(A) a memorandum in support thereof containing the points and authorities upon which the opposing party relies, including citations;

(B) if desired, the evidence upon which the opposing party relies; and

(C) any affidavits or declarations under penalty of perjury permitted by the Guam Rules of Civil Procedure.

(2) The moving party may, within forty-two (42) days from the filing of the motion, file and serve a reply to the opposing party's opposition.

(3) The parties may, by stipulation filed with the court and without further order of the court, extend the time for filing an opposition by not more than seven (7) days and/or a reply, if any, by not more than seven (7) days.

(e) Oral Argument.

(1) Oral Argument Not Automatic. Oral argument may be denied in the discretion of the judge, except where oral argument is required by statute or the Guam Rules of Civil Procedure.

(2) Any party may, but is not required to, either request oral argument or submit a statement that the party represents that oral argument is not necessary by either indicating such on the notice of motion submitted pursuant to CVR 7.1(c)(1) or by filing CVR 7.1 FORM 2, "Statement Re: Oral Argument on Pending Motion" making the request or stating that oral argument is not necessary, and specifying the motion on which oral argument is sought, or

waived, within seven (7) days after the date the last paper on that motion is filed, or the time for filing has elapsed.

(A) A request for oral argument which includes an agreed upon recommended hearing date is not subject to withdrawal except by stipulation of all parties.

(B) In the request for oral argument, the parties may, but are not required to, designate a date for oral argument. The court shall not be bound by this date in scheduling a date for oral argument, if it decides that oral argument shall be had.

(C) The court will set the date and time for argument or determine that oral argument is not necessary and will notify the parties using CVR 7.1 FORM 3. If the date and time for oral argument are changed by the court, the court shall notify the parties using CVR 7.1 FORM 3.

(D) The court, in the exercise of its discretion, regardless of whether oral argument has been requested or whether statements have been submitted suggesting that oral argument may not be necessary, may:

(i) order oral argument; or

(ii) determine that argument is unnecessary.

(3) A party seeking oral argument that does not file a timely Rule 7.1(e)(2) Statement requesting oral argument shall be deemed to have waived any request for oral argument. The court may, in its discretion, consider an untimely Rule 7.1(e)(2) Statement requesting oral argument upon a showing of good cause.

(4) The filing of a CVR 7.1 FORM 2 Statement Re: Oral Argument for Pending Motion is entirely discretionary on the part of the parties and a motion shall not be granted, denied, dismissed or sanctions issued on the basis of the failure of a party or parties to file the Statement.

(5) Court's Cancellation of Oral Argument. Any oral argument may be taken off calendar by Order of the court, in the discretion of the court, and a decision rendered on the basis of the written materials on file.

(6) Motion Under Advisement. For time standard purposes pursuant to Administrative Rule 06-001, a motion will be treated as under advisement after:

(A) the time for filing an opposition has elapsed, no opposition has been filed, and the court has not scheduled the matter for oral argument;

(B) an opposition has been filed, a reply has been filed or the time for filing a reply has elapsed, no request for oral argument has been made within the time allowed, and the court has not scheduled the matter for oral argument within thirty (30) days;

(C) an opposition has been filed, a reply has been filed or the time for filing a reply has elapsed, a request for oral argument has been made and such request has been denied, or not acted on by the court within thirty (30) days;

(D) oral argument has concluded;

(E) the judge has indicated through the filing and service of CVR 7.1 FORM 3 that no oral argument will be held on the motion; or

(F) 120 days after the filing of the motion, if such date is earlier than the periods set forth in CVR 7.1(e)(6)(A)-(E).

(f) Failure to File Required Papers. Papers not timely filed by a party including any memoranda or other papers required to be filed under this Rule shall not be considered without leave of court.

(g) Length of Briefs and Memoranda. Each party may submit briefs or memoranda in support of or in opposition to any pending motion which shall not exceed a total of twenty (20) pages in length without leave of court to file additional pages. The moving party may submit a reply brief or memoranda not in excess of ten (10) pages without leave of court. Any disclosure statement, table of contents, table of authorities, addendum, declarations or affidavits, or exhibits, do not count toward the page limitation. All briefs and memoranda in excess of twenty (20) pages for which leave to file has been granted shall contain a table of authorities cited and table of contents.

(h) Advance Notice of Withdrawal or Non-Opposition; Continuances.

(1) Any moving party who does not intend to press the motion or who intends to withdraw the motion, or any opposing party who does not intend to oppose the motion, shall, not later than seven (7) days after the date the last paper on that motion is filed, or the time for filing has elapsed, file and serve a notice of withdrawal or non-opposition.

(2) A party who intends to request for a continuance of a hearing set by the court shall, not later than five (5) working days preceding the oral argument date, file and serve a request for continuance.

(3) Absent good cause shown, a deadline fixed by or pursuant to these rules will not be extended.

(i) Motion for Reconsideration. A motion for reconsideration of the decision on any motion may be made only on the grounds of

(1) a material difference in fact or law from that presented to the Court before such decision that in the exercise of reasonable diligence could not have been known to the party moving for reconsideration at the time of such decision, or,

(2) the emergence of new material facts or a change of law occurring after the time of such decision, or,

(3) a manifest showing of a failure to consider material facts presented to the Court before such decision.

No motion for reconsideration shall in any manner repeat any oral or written argument made in support of or in opposition to the original motion.

(j) Orders Shortening Time. Applications for orders shortening the time permitted or required by these Civil Rules of Court or the Guam Rules of Civil Procedure for the filing of any paper or pleading or the doing of any act shall be supported by a declaration stating the reasons therefor. When the application is made ex parte, the declaration shall state the reasons why a stipulation could not be obtained or notice could not be given.

(k) Sanctions. The court need not consider motions, oppositions to motions or briefs or memoranda that do not comply with this Rule, and the court shall issue an order stating the grounds on which it deems the filing noncompliant if it so determines. The presentation to the court of frivolous motions or oppositions to motions or the failure to comply fully with this Rule subjects the offender at the discretion of the court to the sanctions of General Rule 2.1.

In the Superior Court of Guam

[Empty box for Plaintiff(s)]

Case No. [Empty box]

v.

[Empty box for Defendant(s)]

CVR 7.1 FORM 1

And any related claims and parties.

NOTICE OF MOTION and MOTION

Please take notice that

[Empty box for Movant(s)]

hereby move(s) the court for an Order granting the following relief:

[Empty box for Relief Sought]

[Empty box for Relief Sought]

Oral Argument is requested: Yes ___ No ___ Unknown at this time ___

BRIEFING SCHEDULE

Pursuant to CVR 7.1(b) and (d)(1)-(3), or order of this court, or stipulation filed with the court, the respective briefs of the parties on the motion must be filed and served as follows:

Opening brief due:

[Empty box for Opening brief due date]

Normally the date of filing of this Notice

Opposition brief due:

[Empty box for Opposition brief due date]

Normally 28 days after above date

Reply brief (if any) due:

[Empty box for Reply brief due date]

Normally 42 days from the filing of the motion

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he or she has caused, or within one business day of filing, shall cause this notice, together with any and all accompanying documents and supporting memoranda relative to the subject motion, to be served upon all parties who have appeared herein, through counsel of record, pursuant to Guam Rule Civil Procedure Rule 5.

RESPECTFULLY SUBMITTED this ___ day of _____, 20__.

Movant(s)	
	Attorney's Signature
Attorney	

In the Superior Court of Guam

--

Plaintiff(s)

v.

--

Defendant(s)

Case No.

CVR 7.1 FORM 2

And any related claims and parties.

STATEMENT RE: ORAL ARGUMENT ON PENDING MOTION

[To be filed no later than seven (7) days after filing of the last brief on the subject motion or after the time for such filing has elapsed.]

On

,

 Movant(s)

filed a motion for an order granting the following relief:

Relief Sought

With respect to said motion, the undersigned hereby:

Requests oral argument on the motion.

The parties have agreed that the motion should be heard on or about:

--

Parties' proposed hearing date

The parties either have not agreed on a hearing date or have not discussed the matter.

Represents that oral argument on the motion is unnecessary.

RESPECTFULLY SUBMITTED this ____ day of _____, 20__.

Party	
	Attorney's Signature
Attorney	

In the Superior Court of Guam

--

Plaintiff(s)

Case No.

v.

--

Defendant(s)

CVR 7.1 FORM 3

And any related claims and parties.

NOTICE OF HEARING OR SUBMISSION ON BRIEFS

On

,

 Movant(s)

filed a motion for an order granting the following relief:

Relief Sought

PLEASE TAKE NOTICE that with respect to said motion:

Oral argument is set before the court at the following date and time:

The court has determined that oral argument is unnecessary.

DATED this ____ day of _____, 20__.

Clerk/Deputy Clerk	
	Signature