

FILED

IN THE SUPREME COURT OF GUAM

<p>RE: )          )  <b>ADOPTION OF AMENDED</b> )  <b>CASE ASSIGNMENT RULE FOR</b> )  <b>THE SUPERIOR COURT OF GUAM</b> )  <b>to incorporate recent changes in</b> )  <b>MENTAL HEALTH COURT and</b> )  <b>DWI COURT.</b> )</p>	<p>Supreme Court Case No. PRM10-<u>003</u>   <b>PROMULGATION ORDER</b>          NO. PRM10-003-01</p>
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At a Judicial Council meeting of November 4, 2010, the Judicial Council of Guam passed a resolution that recommended to the Supreme Court of Guam that it adopt the creation of the DWI Court of the Superior Court of Guam, and further proposed that the attached Amended Case Assignment Rule be promulgated in order to accommodate the addition of the DWI Court of the Superior Court of Guam, as well as prior changes to the Case Assignment Rule.

For cause shown, it is hereby ORDERED that the Amended Case Assignment Rule, set forth below and incorporated by reference, be promulgated:

[TEXT OF RULE FOLLOWS]:

**ADMINISTRATIVE RULE RE: CASE ASSIGNMENTS**

**A. Introduction.**

Pursuant to 48 USC §§ 1424-1(a)(4) and (6), the Supreme Court of Guam hereby promulgates an administrative rule for the procedures to be followed regarding case assignments for the Superior Court of Guam effective November 15, 2010.

This rule contemplates a full contingent of seven Superior Court trial court judges occupying the bench. If a full contingent of judges does not occupy the bench during an extended period of time, other than regularly scheduled training or holidays, the Clerk of Court shall confer with the Chief Justice, Presiding Judge, and the Administrator of the

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1 Courts regarding consideration of interim measures, if necessary, to assure the continued  
2 efficient and equitable administration of case distribution until such time as a full  
3 contingent of seven Superior Court judges is again in place.

4 All cases shall be assigned in accordance with this Rule.

5 **B. Assignment of Cases Other Than Small Claims, Traffic and Child Support**  
6 **Matters**

7 **1. Creation of "Specialty Courts" and Assignment of Specialty Court Cases**

8 There shall be four Specialty Courts created for specific types of cases with  
9 each specialty court to be occupied by one judge for a period of three years and  
10 a DWI Pilot Project Specialty Court to be occupied by one judge for the period  
11 November 15, 2010 to December 31, 2011, to be applicable to cases brought  
12 under 16 GCA 18102, "Driving While Under the Influence," or "DWI." The  
13 Specialty Courts shall be the Family Court I, Family Court II, Family Violence,  
14 and Adult Drug Court. The specific types of cases assigned to each of the  
15 Specialty Courts shall remain with that particular Specialty Court upon the  
16 completion of the Specialty Court judge's three year term and become the  
17 responsibility of the next-incoming Specialty Court judge. All other cases  
18 assigned outside the Specialty Courts shall remain the responsibility of the  
19 judge who was originally assigned those cases.

20 Each Specialty Court judge shall occupy the allocated specialty court for  
21 a period of three years after which time the Specialty Court shall be randomly  
22 reassigned to another judge. Such random reassignment to the four Specialty  
23 Courts shall occur at a meeting noticed to the full contingent of seven judges  
24 and held no later than 18 months prior to the expiration of the then-current  
25 three year Specialty Court rotation to allow the next incoming Specialty Court  
26 judge to adequately prepare for their Specialty Court role. Such random  
27 reassignment shall be fair and equitable and provide each of the seven judges  
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1 with the opportunity to occupy each of the seven rotations established  
2 hereunder.

3 **(a) Family Court Specialty Courts I & II:**

4 (i) All Juvenile Delinquency (JD), Juvenile Proceeding (JP) and one-half  
5 (1/2) of all beyond control cases shall be assigned to the two Family Court Specialty  
6 Courts. The two Family Court specialty judges shall cooperate to determine a fair  
7 and equitable distribution of these cases assigned to the two Family Court Specialty  
8 Courts.

9 (ii) All cases regarding the mental state of criminal defendants (referred  
10 to as "Mental Health Court" pursuant to Administrative Order 07-001) and Special  
11 Proceedings (SP) cases which involve competency hearings, civil commitment  
12 hearings or adult guardianships matters shall be assigned to Family Court I. In  
13 addition:

14 A. All cases in which the defendant has placed his or her  
15 mental state in issue pursuant to Title 9 GCA § 7.22 or § 7.37, either  
16 before or after August 30, 2010 shall be reassigned to Family Court I/  
17 Mental Health Court for all subsequent proceedings.

18 B. All cases which are re-assigned from another judge prior to  
19 the determination of the defendant's mental state shall be counted  
20 toward the MHC Judge's six percent share of both felony and  
21 misdemeanor cases.

22 (iii) All Juvenile Drug Court (JDC) cases shall be assigned to Family Court  
23 II.

24 **(b) Family Violence Specialty Court:**

25 (i) All criminal felony and misdemeanor Family Violence (FV) cases, all  
26 civil Ex Parte Applications for Temporary Orders of Protection ("TPO") and  
27 Orders to Show Cause, and all Protective Order cases ("PO") as defined under the  
28 Guam Local Rules of Court Miscellaneous Rule 2.1 shall be assigned to the Family

1 Violence Specialty Court. In addition, under the concept of One-Judge-One-Family,  
2 any domestic case (DM) with the same parties involved in either the criminal FV  
3 and/or PO cases should be assigned, or reassigned, to the Family Violence Specialty  
4 Court as provided for under Miscellaneous Rule 2.1.2(B), with appropriate credit  
5 given to the Family Violence Specialty Court Judge.

6 (ii) Ex Parte Applications for a PO shall be referred to the Family  
7 Violence Specialty Court Judge and, not the on duty ex-parte judge, for hearing and  
8 any OSC hearings on these types of cases shall be scheduled by the Family Violence  
9 Specialty Court judge. Ex Parte Applications for civil or non-domestic violence  
10 restraining orders shall not be referred to the Family Violence Specialty Court, but  
11 shall be referred to the regular on-duty ex-parte judge.

12 (iii) All felony or misdemeanor criminal cases which include any level of a  
13 family violence charge shall be assigned to the Family Violence Specialty Court,  
14 (except cases where the defendant has pled NGI). In cases with both family violence  
15 and drug charges, the Family Violence Specialty Court judge may refer the case to  
16 the Adult Drug Court Specialty Court upon a determination that the defendant is  
17 eligible for the adult drug court program.

18 (iv) Non-family violence criminal cases, whether post-judgment or pre-trial,  
19 shall not be automatically reassigned to the Family Violence Specialty Court unless  
20 requested or accepted by the Family Violence Specialty Court judge. Any pre-trial  
21 reassigned case under this procedure will be credited to the Family Violence Court  
22 Specialty Court judge.

23 c) Adult Drug Court Specialty Court: All Adult Drug Court cases as well as  
24 all felony drug cases that are not Adult Drug Court cases and all misdemeanor drug  
25 cases (not including DUI cases) that are not Adult Drug Court cases shall be  
26 assigned to the Adult Drug Court Specialty Court.

27 d) DWI Pilot Project Specialty Court:  
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1 (i) All felony and misdemeanor cases involving any DWI charge filed with the  
2 Superior Court of Guam after November 15, 2010, shall be assigned to the DWI  
3 Specialty Court.

4 (ii) The judge assigned to the DWI Specialty Court shall not be assigned any  
5 general criminal misdemeanor cases

6 (2) Assignment of Other Criminal Cases

7 (a) Felony Cases:

8 The two Family Court Specialty Court judges and the Family Violence Specialty  
9 Court judge shall each be assigned six percent (6%) and the DWI Specialty Court  
10 judge fourteen percent (14%) of the criminal felony cases that are not already  
11 assigned to the judges of the Family Violence Specialty Court, the Adult Drug Court  
12 Specialty Court or the DWI Specialty Court. The Adult Drug Court Specialty Court  
13 judge shall not be assigned any felony cases other than those felony cases specifically  
14 assigned to the Adult Drug Court Specialty Court. Considering a full contingent of  
15 seven judges, the remaining two judges who are the general jurisdiction judges shall  
16 each be assigned thirty-four percent (34%) of the felony cases that are not already  
17 assigned to the judges of the Family Violence Specialty Court, the Adult Drug Court  
18 Specialty Court or the DWI Specialty Court.

19 (b) Misdemeanor Cases: The two Family Court Specialty Court judges shall  
20 each be assigned ten percent (10%) of all criminal misdemeanor cases that are not  
21 already assigned to the judges of the Family Violence Specialty Court or the DWI  
22 Specialty Court. The judges of the Family Violence Specialty Court and the DWI  
23 Specialty Court shall not be assigned any criminal misdemeanor cases other than  
24 those specifically assigned to their specialty courts. Considering a full contingent of  
25 seven judges, the remaining three judges who are the general jurisdiction judges  
26 and the Adult Drug Court Specialty Court judge shall each be assigned twenty-  
27 seven percent (27%) of the criminal misdemeanor cases that are not already  
28 assigned to the Family Violence Specialty Court judge or the DWI Specialty Court

1 judge; provided, however, that the Adult Drug Court Specialty Court judge shall be  
2 credited towards his/her twenty-seven percent (27%) share with all misdemeanor  
3 drug cases assigned to him or her as the Adult Drug Court Specialty Court judge.”

4 **3. Assignment of Civil Cases**

5 All non-criminal cases not assigned to the Specialty Court judges shall be divided  
6 equally among the seven Superior Court judges, one-seventh (1/7) to each judge. These  
7 cases shall include civil (CV), domestic (DM) (other than Family Violence-related DM cases  
8 that are assigned to the Family Violence Specialty Court judge), probate, land registration,  
9 adoption and Special Proceedings (including name changes, writs, and special process  
10 server applications) which do not involve competency hearings, crime commitment  
11 hearings or adult guardianship; provided, however, that the Family Violence Specialty  
12 Court judge shall be credited towards his/her one-seventh share for all the Family  
13 Violence-related DM and civil Restraining Order cases assigned to the Family Violence  
14 Specialty Court.

15 **4. Disqualification and Re-Assignment:**

16 **(a) Procedures for Recusal:** The Clerk of Court will handle Statements under 7 GCA §  
17 6106 in the following manner:

18 (1) If the assigned judge becomes aware of “knowledge of disqualifying facts” when  
19 the parties are in open court, then the assigned Judge should put such disqualifying facts  
20 on the record at that time.

21 (2) If, on the other hand, the assigned judge becomes aware of “knowledge of  
22 disqualifying facts” at a time that the case is not before the court on the record in open  
23 court, the “knowledge of disqualifying facts” must still be put on the record.

24 (3) Such knowledge shall be put on the record in the following manner: The  
25 assigned judge shall prepare and sign the memo acknowledging disqualifying facts. This  
26 memorandum must then be attached to a “Notice of Recusal” (Example 1 for situations the  
27 judge is not willing to invite waivers) or a “Notice of Disqualifying Facts” (Example 2 in  
28 cases where a judge is willing to entertain waivers. The judge’s chamber clerk must

1 generate this document. The judge's memo is then stapled to the document. This  
2 document is file-stamped and docketed and thereby placed on the record.

3 (4) After filing of the Notice, the Clerk of Court will route the Notice to the  
4 Presiding Judge or next most senior qualified judge, who will perform the review set forth  
5 in part (b) at the earliest convenience. If the Presiding Judge or next most senior qualified  
6 judge finds that the Memorandum attached to the Notice fits within subpart (b)(1) or (2)  
7 below, the Notice will be returned to the chambers of the recusing judge and the recusal  
8 will not be entered on the record. If the Presiding Judge or next most senior qualified  
9 judge finds that the Memorandum attached to the Notice fits within subpart (b)(3) below,  
10 s/he will notify the Clerk of Court to file the Notice and notify the parties. The Office of the  
11 Clerk shall serve the parties with this document in the same manner that all other  
12 documents are served on counsel under the Guam Rules of Civil Procedure and the Local  
13 Rules of Practice for the Superior Court of Guam.

14 **(b) Sufficiency of Stated Ground for Recusal:** The Presiding Judge shall review all  
15 Notices filed as set forth in 4.(a) above.

16 (1) If the grounds alleged for the disqualification are not supported by a statement  
17 of facts constituting a factual basis under the law requiring recusal, the Presiding Judge  
18 will have the authority to reject the disqualification as non-conforming.

19 (2) If the grounds alleged for the disqualification are not recognized by law,  
20 pursuant to 7 GCA § 6105, the Presiding Judge has the authority to reject the  
21 disqualification as non-conforming.

22 (3) If the grounds for disqualification arise under 7 GCA § 6105 and a factual basis  
23 is alleged to support the legally cognizable ground, the Presiding Judge will have no  
24 authority to reject the recusal as non-conforming.

25 When the Presiding Judge is not qualified to conduct the review in (b) above, the  
26 duty shall fall to the next most senior qualified judge.

27 **5. Complex Litigation**

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1           When motions to consolidate cases which have been assigned to different judges are  
2 filed, the Presiding Judge shall meet with the judges involved to attempt to reach consensus  
3 on how the litigation should be assigned. The Presiding Judge shall thereafter make the  
4 assignment of cases in order to promote equitable distribution of cases and judicial  
5 economy. In order to have a fair and equitable case distribution, the Presiding Judge may  
6 adjust total case assignments when complex litigation requires the assigned judge to devote  
7 a greater proportion of his or her time to the complex case or cases.

8           **6.     Miscellaneous Matters**

9           (a)     All judges, will rotate every two weeks as the *ex parte* judge with a  
10 schedule to be established by the Presiding Judge.

11          (b)     Until a Magistrate takes office, the Master Calendar Cases will  
12 continue to rotate every two weeks, similar to the *ex parte* calendar.

13           **7.     Assignment of Child Support Cases**

14           The Child Support Hearing Officer will continue to hear all of the Child  
15 Support cases as well as all Truancy matters and one-half of all Beyond Control  
16 matters, and traffic cases when the assigned Magistrate, judge *pro tem* or referee is  
17 not available to hear them.

18           **C.   Random Case Assignment:**

19           The Administrative Officer of the Courts shall take reasonable steps as may  
20 be necessary to cause to be computerized the random assignment of cases as  
21 described above.

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EXHIBIT 1

SUPERIOR COURT OF GUAM

	,	)	
		)	
		)	<b>Case No.</b>
Plaintiff,		)	
		)	
vs.		)	
		)	NOTICE OF RECUSAL
	,	)	
		)	
Defendant.		)	

Pursuant to 7 GCA § 6106, the assigned judge has disclosed disqualifying facts as set forth in the attached Memorandum of Recusal.

Pursuant to 7 GCA § 6105 and § 6107, the assigned judge hereby notifies the Clerk of Court that s/he is RECUSED from sitting on this case and requests reassignment to another qualified Judge of the Superior Court.

ENTERED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Chamber Clerk to \_\_\_\_\_  
Superior Court of Guam

EXHIBIT B

SUPERIOR COURT OF GUAM

	,	)	
		)	
	Plaintiff,	)	<b>Case No.</b>
		)	
vs.		)	
		)	NOTICE OF DISQUALIFYING
		)	FACTS
	,	)	
		)	
	Defendant.	)	
		)	

Pursuant to 7 GCA § 6106, the assigned judge has disclosed facts as set forth in the attached Memorandum which may constitute disqualifying facts pursuant to 7 GCA § 6106. Title 7 § 6105 does not require that a judge disqualify him/herself if following complete disclosure of the reasons for the disqualification to all parties to the proceeding, the parties agree to the judge continue to sit in the proceedings. Therefore, the parties to the above-captioned proceeding have [one week] to file an agreement for the undersigned judge to sit on this case, or file a Motion to Disqualify under § 6107.

ENTERED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
 Chamber Clerk to \_\_\_\_\_  
 Superior Court of Guam